(24,672)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1915.

No. 433.

OLAF LIE, MASTER OF THE NORWEGIAN STEAMSHIP "SELJA," &c., PETITIONER,

vs.

SAN FRANCISCO & PORTLAND STEAMSHIP COMPANY, CLAIMANT OF THE AMERICAN STEAMSHIP "BEAVER."

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., JUNE 16, 1915.

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No. 2365

United States
Circuit Court of Appeals
For the Ninth Circuit.

Apostles.
(IN FOUR VOLUMES)

OLAF LIE, Master of the Norwegian Steamship "SELJA," on Behalf of Himself and the Owners, Officers and Crew of Said Steamship,

Appellant,

vs.

SAN FRANCISCO & PORTLAND STEAMSHIP COMPANY, a Corporation, Claimant of the American Steamship "BEAVER," Her Engines, etc.,

Appellee.

VOLUME 1
(Pages 1 to 352, Inclusive.)

Upon Appeal from the United States District Court for the Northern District of California, First Division.

Filmer Bros. Co. Print, 330 Jackson St., S. F., Cal.

Statement of Clerk U. S. District Court.

In the District Court of the United States, in and for the Northern District of California, First Division.

No. 15,099.

TITLE OF CAUSE.

OLAF LIE, Master of the Norwegian Steamship "SELJA," on Behalf of Himself and the Owners, Officers, and Crew of Said Steamship,

Libelants,

vs.

The American Steamship "BEAVER," Her Engines, Boilers, Tackle, Apparel, Furniture, Boats and Appurtenances, and Against All Persons Intervening for Their Interests in the Same,

Libelee. [1*]

PARTIES.

Libelants: Olaf Lie, master of the Norwegian Steamship "Selja," on behalf of himself and the owners, officers, and crew of said steamship.

Intervening Libelants: Olaf Lie, master of the Norwegian Steamship "Selja," as bailee of the cargo of said steamship, on behalf of the owners, underwriters, and all parties interested in said cargo.

St. Paul Fire and Marine Fire Insurance Company, a corporation.

Libelee: The American steamship "Beaver," her engines, boilers, tackle, apparel, furniture, boats, and appurtenances.

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*Page number appearing at foot of page of original certified Record.

Claimants: San Francisco and Portland Steamship Company, a corporation, as to Steamship "Beaver."

PROCTORS.

for

Libelants: Messrs. McClanahan and Derby, San Francisco, California.

Intervening Libelants: Louis T. Hengstler, Esquire, San Francisco, California, for Bailee. [2] F. R. Wall, Esquire, San Francisco, California, for St. Paul Fire and Marine Insurance Company, a corporation.

Claimants: William Denman, Esquire, and Messrs. Page, McCutchen, Knight and Olney, for San Francisco and Portland Steamship Company, a corporation, all of San Francisco, California.

PROCEEDINGS.

1910.

November 26. Filed verified libel for damages. Issued monition for the attachment of the American steamer "Beaver," her engines, boilers, etc., and which said monition was afterwards on the 28th day of November, 1910, returned and filed with Return of the United States Marshal endorsed thereon as follows:

"In obedience to the within monition, I attached the American steamer 'Beaver' therein described, on the 26th day of No-

vember, 1910, and have given due notice to all persons claiming the same that this Court will, on the sixth day [3] of December, 1910 (if that day be a day of jurisdiction, if not, on the next day of jurisdiction thereafter), proceed to trial and condemnation thereof, should no claim be interposed for the same, I further certify that I handed to and left copy hereof with R. B. Seike, the officer in charge of said American steamer 'Beaver,' on board of said steamer 'Beaver' on the dry-dock at Hunter's Point, in San Francisco, California, and placed W. H. Chalmers, as keeper in charge thereof.

C. T. ELLIOTT,
United States Marshal.
By B. F. Towle,
Deputy.

San Francisco, Cal., Nov. 28th, 1910."

December 3. Filed verified libel of intervention (Olaf Lie as bailee).

Issued monition in accordance with said libel of intervention, which was afterwards, on the 3d day of December, 1910, returned and filed with the return of the

United States Marshal endorsed thereon as follows:

"I hereby certify and return that on the 3d day of December, 1910, I received the within monition, and said American steamship 'Beaver,' being already in my custody, under and by virtue of a Writ of Monition issued out of the within-entitled court on the 26th day of November, 1910, I made no further seizure of said vessel. I further return, that I handed to and left with Messrs. McClanahan and Derby, the proctors for libelant in the original case, a copy of the within [4] monition, personally, at San Francisco, on the 3d day of December, 1910, and whose admission of service hereof and also the admission of service hereof by Messrs. Knight and Heggerty and Charles Page and William Denman, proctors for the claimant, are also endorsed hereon.

C. T. ELLIOTT,
U. S. Marshal.
By Geo. H. Burnham,
Chief Office Deputy.

San Francisco, California, December 3d, 1910.

Due service of the within monition is hereby admitted this 3d day of November, 1910.

KNIGHT & HEGGERTY,
CHAS. PAGE,
WILLIAM DENMAN,
Proctors for Claimant.
McCLANAHAN & DERBY,
Proctors for Libelant in Original Suit."

December 6. Filed claim of San Francisco and Portland Steamship Company, a corporation, to the American steamship "Beaver," her tackle, apparel, and furniture (as to original libel).

December 6. Filed claim of San Francisco and Portland Steamship Company, a corporation, to the American steamship "Beaver," her tackle, apparel and furniture (as to libel in intervention).

December 6. Filed admiralty stipulation (bond) in the [5] sum of $275,000.00, for the release of the American steamship "Beaver" on the original libel.

December 6. Filed admiralty stipulation (bond) in the sum of $450,000.00, for the release of the American steamship "Beaver," on the libel of intervention.

December 12. Filed stipulation as to personal effects of steward and carpenter of S. S. "Selja."

December 13. Filed depositions of Axel Andersen, Arvid Bjorn, Rambek Eggen, Alfred Halvorsen, Peder Hansen and Alfred Larsen, taken before United States Commissioner, Jas. P. Brown.

1911.

January 18. Filed answer of San Francisco and Portland Steamship Company, a corporation (as to original libel).

February 3. Filed answer of San Francisco and Portland Steamship Company, a corporation (as to libel of intervention).

February 28. The District Court of the United States for the Northern District of California, the Honorable John J. De Haven, presiding, granted the motion permitting the St. Paul Fire and Marine Insurance Company, to intervene in this Court.

February 28. Filed petition and verified libel of intervention of St. Paul Fire and Marine Insurance Company, a corporation, for the sum of $297.-60 and interest.

April 25. Filed answer of San Francisco and Portland Steamship Company, a

corporation (to the libel of intervention of St. Paul Fire and Marine Insurance Company). [6]

May 12. The District Court of the United States for the Northern District of California, the Honorable John J. De Haven, Judge, presiding this day granted the motion for and ordered that the case of Olaf Lie, et al., etc., vs. The American Steamship "Beaver," etc., No. 15,099, and the case of Portland and Asiatic Steamship Company, etc., vs. San Francisco and Portland Steamship Company, etc., No. 15,130, be consolidated for trial, and that said cases as consolidated be referred to United States Commissioner, Jas. P. Brown, to take the evidence to be offered by the respective parties and report the same to this Court.

1912.

January 18. The cases as heretofore consolidated came on for hearing on this day in the District Court of the United States for the Northern District of California at the courtroom thereof in the City and County of San Francisco, before the Honorable R. S. Bean, Judge, presiding

in said court, and were continued from day to day until January 24th, when said cases were submitted for decision.

June 26. Filed opinion of R. S. Bean.

September 2. Filed interlocutory decree, ordering cases referred to United States Commissioner, Jas. P. Brown, to ascertain and compute the damages sustained by the respective parties. [7]

1913.

March 27. Filed dismissal (by F. R. Wall, proctor) of the libel of intervention filed by the St. Paul Fire and Marine Insurance Company.

May 21. Filed stipulation of proctor as to respective amounts and damages suffered by each of the owners, or underwriters, of the cargo of the vessel in question.

August 29. Filed stipulation as to the amount of damages suffered by the parties represented by Olaf Lie, etc.

September 22. Filed stipulation of proctors for the setting aside of order heretofore entered (interlocutory decree), referring the cases to the United States Commissioner, Jas. P. Brown, etc., and that the cases be submitted to the Honorable R. S. Bean.

November 25. Filed memorandum opinion awarding damages, etc.

December 5. Filed final decree in original suit.

December 9. Filed notice of appeal.

December 11. Filed testimony taken before United States Commissioner Jas. P. Brown.

December 12. Filed final decree in intervention suit (on behalf of cargo owners), awarding damages in the sum of $260,344.41, and interest against the steamship "Beaver," etc.

December 13. Filed bond on appeal.

December 19. Filed assignment of errors. [8]

In the District Court of the United States in and for the Northern District of California, First Division.

No. 15,099.

OLAF LIE, Master of the Norwegian Steamship "SELJA," on Behalf of Himself and the Owners, Officers and Crew of Said Steamship,

Libelant,

vs.

The American Steamship "BEAVER," Her Engines, etc.,

Libelee,

SAN FRANCISCO & PORTLAND STEAMSHIP COMPANY, a Corporation,

Claimant.

Praecipe for Transcript on Appeal.

To the Clerk of the Above-entitled Court.

Please prepare transcript of record in this cause on appeal to the United States Circuit Court of Appeals for the Ninth Circuit, and include in said transcript the following:

1. Statement required by Admiralty Rule 4, Subdivision 1, of said Circuit Court of Appeals.

2. All the pleadings together with the exhibits annexed thereto in the above cause, all opinions of the Court on questions arising in said cause, the interlocutory and final decrees therein, and all stipulations and orders in said cause, excepting, however, the papers omitted by stipulation of the parties dated December 8th, 1913. Said papers so to be transcribed are, we understand, as follows:

(a) Original libel filed November 26, 1910. [9]

(b) Libel in intervention filed December 3, 1910.

(c) Answer to libel filed January 18, 1911.

(d) Answer to libel in intervention filed February 3, 1911.

(e) Stipulation as to value of personal affects of steward and carpenter of the S. S. "Selja" filed December 12, 1910.

(f) Stipulation as to the effects of wife and children of master of S. S. "Selja" filed June 9, 1911.

(g) Stipulation as to depositions of officers of S. S. "Selja" filed June 9, 1911.

(h) Opinion of Bean, J., filed June 26, 1912.

(i) Interlocutory decree filed September 2, 1912.

(j) Stipulation as to cargo damages filed May 31, 1913.

(k) Stipulation as to damages and facts filed August 29, 1913.

(l) Stipulation and orders referring case to Bean, J., etc., filed September 22, 1913.

(m) Opinion of Bean, J., filed November 25, 1913.

(n) Final decree filed December 5, 1913.

3. Court minutes of proceedings and orders in the above cause.

4. All testimony and depositions taken in the said cause.

5. The original exhibits introduced in evidence in said cause as per stipulation of counsel dated December 8, 1913, and order made thereon.

6. Stipulation of counsel as to apostles on appeal dated December 8, 1913.

7. Stipulation of counsel as to costs dated December 6, 1913.

8. Notice of appeal, bond on appeal, notice of filing bond on appeal and assignment of errors.

9. The following papers in case No. 15,130 consolidated for trial with the above cause, to wit: Libel and interrogatories, answer, stipulation for amendment of libel and amendment of libel. [10]

10. This praecipe.

Dated: December 9th, 1913.

McCLANAHAN & DERBY,
Proctors for Libelant.

[Endorsed]: Filed Dec. 9, 1913. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [11]

In the District Court of the United States for the Northern District of California.

IN ADMIRALTY.

OLAF LIE, Master of the Norwegian Steamship "SELJA," on Behalf of Himself and the Owners, Officers and Crew of Said Steamship,
Libelant,

vs.

The American Steamship "BEAVER," Her Engines, Boilers, Tackle, Apparel, Furniture, Boats and Appurtenances,
Libelee.

Libel in Rem.

To the Honorable JOHN J. DE HAVEN, Judge of the District Court of the United States for the Northern District of California:

The libel of Olaf Lie, master of the Norwegian steamship "Selja," on his own behalf and on behalf of the owners, officers and crew of said steamship against the American steamship "Beaver," her engines, boilers, tackle, apparel, boats and appurtenances, and against all persons intervening for their interests in the same, in a cause of collision, civil and maritime, alleges as follows:

I.

That at all times hereinafter mentioned libelant was a subject of the Kingdom of Norway and was the master of the Norwegian steamship "Selja," which said steamship, libelant is informed and believes and therefore alleges, was at said times, and

before the collision hereinafter mentioned, of the value of Two Hundred and Fifty Thousand Dollars ($250,000). [12]

II.

That the American steamship "Beaver" herein proceeded against is now in the Northern District of California and within the jurisdiction of this Honorable Court.

III.

That on Tuesday, the 22d day of November, 1910, a collision occurred between the said steamships "Selja" and "Beaver" on the high seas near Point Reyes on the coast of California, by reason of which the said steamship "Selja" was sunk and, together with her cargo and the effects of her master, officers, crew, was totally lost.

IV.

That the following are the circumstances of the said collision: On the said 22d day of November the said steamship "Selja" was on a voyage from the port of Yokohama, in Japan, to the Port of San Francisco, in the State of California. At about the hour of 1 o'clock A. M. on said day, when about 70 miles off Point Reyes on the coast of California, she encountered a dense fog, which did not lift any *any* time before said collision, which occurred but a short interval of time after 3:15 P. M. of said day. That at about the hour of 2:30 P. M. the fog-horn on Point Reyes was heard off the port bow at a seeming distance of about 2 miles, and at 2:50 P. M. the said fog-horn was heard right abeam of the "Selja," and her course was then changed from south 60°

east to south 65° east magnetic, heading for the lightship off the Golden Gate. Her speed at this time was about 6 miles per hour; her master and third officer were on the bridge; a competent man was on the lookout and another at the wheel, and they, as well as the rest of the crew who were variously employed in their respective duties, were faithfully attending thereto; soundings were being taken and the vessel's [13] fog-whistle was being blown, as required by the regulations for avoiding collisions at sea, up to the time of the collision itself hereinafter described. At about 3 o'clock P. M. a deep distant whistle was heard seemingly dead ahead of the "Selja" and apparently a long way off, which afterwards proved to be that of the aforesaid steamship "Beaver" outward bound from the port of San Francisco on one of her regular voyages from that port to the port of Portland, in the State of Oregon, but that at the time libelant could not tell whether the same was the whistle of a steamer or not. Said whistle was at once answered by a long blast of the "Selja's" whistle. The whistle of the "Beaver" was repeated at regular intervals of about a minute but seemingly nearer, until at about 3:05 o'clock P. M. the "Selja's" engines were put at slow speed. The approaching "Beaver's" whistle continuing to grow nearer and clearer and a little off the "Selja's" port bow, at 3:10 P. M. the "Selja's" and her course was still south 65° east, and this engines were stopped. At the time her engines were stopped, she was making about 3 knots per hour, course was not changed, but after the engines were

stopped and at 3:15 P. M. the vessel had swung about one point to starboard. The fog was still dense; there was but little wind and a westerly swell; the fog-whistle of the "Selja" had been regularly answering that of the "Beaver" up to this time. Under these conditions and circumstances, the "Beaver" suddenly appeared through the fog at a distance of about 300 yards, and about 2 points on the "Selja's" bow, coming at a very high rate of speed, to wit, at a speed of eleven knots an hour or more, and heading for the port side of the "Selja." The master of the "Selja" at once ordered his engines full speed astern at the same time giving three blasts of her whistle, and her engines were put full speed astern, and the steamship began to gather some sternway and her bow began to swing more to starboard under the [14] effect of the reverse movement of her engines, but the "Beaver," without apparently checking her speed or changing her course, struck the "Selja" on the port side between the forward and main hatch, and cut her way through the steel plates and cargo of the "Selja" for a distance of about 10 feet or more, and then backed out clear of the "Selja." After the impact, the "Selja" listed heavily to port and water poured into the hole made by the "Beaver's" bow, and the "Selja's" master immediately ordered her boats lowered and her engines stopped. That with the assistance of some of the "Beaver's" boats the master, officers and crew of the "Selja," together with the master's wife and two children, were taken from the "Selja" on board the "Beaver," and a few minutes thereafter

the "Selja" turned turtle and sank. That upon a muster of the "Selja's" crew shortly afterwards, it was found that two were missing, and libelant believes that they went down with the ship. That the sinking of the "Selja" was caused solely by the injuries received in said collision and said steamship, with her cargo and the effects of her master and crew and the effects of the master's wife, were totally lost.

V.

That the said collision was in no way due to any fault on the part of the said "Selja," which was at said time, and at all times in this libel mentioned before such collision, in all respects tight, staunch and strong, and in every respect well manned, tackled, appareled and appointed, and having the usual and necessary complement of officers and men, and that said "Selja" was in all respects carefully managed and navigated; but that said collision was wholly due to and brought about by the negligence and incompetency of those in charge of the said "Beaver," by their failure to duly and properly observe the rules and laws of navigation, and not otherwise. [15]

VI.

That by reason of said collision libelant alleges that both he himself and the owners, officers and crew of said steamship "Selja," as represented by him in this action, have suffered great damage in the loss of said steamship "Selja," with her equipment, stores, munitions and freight, and the effects of the master and marines on board which were lost and on account of expenses arising out of said collision, in

a sum which libelant is at present unable to state with accuracy, but which, upon information and belief, he avers amounts to the sum of Two Hundred and Seventy-five Thousand Dollars ($275,000).

VII.

That all and singular the premises are true and are within the admiralty and maritime jurisdiction of this court.

WHEREFORE, libelant prays that process in due form of law, according to the practice of this Honorable Court in causes of admiralty and maritime jurisdiction, may issue against said American steamship "Beaver," her engines, boilers, tackle, apparel, furniture, boats and appurtenances, and that all persons claiming any right or interest therein may be cited to appear and answer all and singular the matters aforesaid; that this Honorable Court will be pleased to decree the payment of the damages alleged herein with interest and costs; and that said vessel, her engines, boilers, tackle, apparel, furniture, boats and appurtenances may be condemned and sold to pay the same; and that libelant may have such other and further relief in the premises as in law and in justice he may be entitled to receive.

Dated: November 26th, 1910.

McCLANAHAN & DERBY,
Proctors for Libelant. [16]

United States of America,
Northern District of California,—ss.

Olaf Lie, being first duly sworn, on oath deposes and says:

That he is the libelant above named and has full

power and authority to represent all parties on behalf of whom he is suing in the foregoing libel. That he has read the foregoing libel and knows the contents thereof and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

OLAF LIE.

Subscribed and sworn to before me this 26th day of November, 1910.

[Seal] FRANCIS KRULL,

Deputy Clerk U. S. District Court, Northern District of California.

[Endorsed]: Filed Nov. 26, 1910. Jas. P. Brown, Clerk. By Francis Krull, Deputy Clerk. [17]

In the District Court of the United States, in and for the Northern District of California.

No. 15,099.

OLAF LIE, Master of the Norwegian Steamship "SELJA," etc.,

Libelant,

vs.

The American Steamship "BEAVER," Her Engines, Boilers, Tackle, Apparel, Furniture, Boats and Appurtenances,

Libelee.

Libel of Intervention.

To the Honorable JOHN J. DE HAVEN, Judge of the District Court of the United States, for the Northern District of California:

Now comes, Olaf Lie, master of the Norwegian steamship "Selja," and, as bailee of the cargo of said steamship, on behalf of the owners, underwriters, and all other parties interested in said cargo, against the American steamship "Beaver," her engines, boilers, tackle, apparel, boats and appurtenances, and against all persons intervening for their interest in the same, in a cause of collision, civil and maritime, alleges as follows:

I.

That at all times hereinafter mentioned libelant was a subject of the Kingdom of Norway and was the master of the Norwegian steamship "Selja," and bailee of her cargo, which said cargo, libelant is informed and believes and therefore alleges, was at said times, and before the collision hereinafter mentioned, of the value of Four Hundred Thousand Dollars ($400,000).

II.

That the American steamship "Beaver" herein proceeded against is now in the Northern District of California, and within [18] the jurisdiction of this Honorable Court.

III.

That on Tuesday, the 22d day of November, 1910, while said steamship "Selja," with full cargo of general merchandise on board, was on the high sea bound

for the port of San Francisco, a collision occurred between the said steamship "Selja" and "Beaver" near Point Reyes, on the coast of California, by reason of which the said steamship "Selja," with her entire cargo, was totally lost.

IV.

That the total loss of the cargo, as aforesaid, was caused solely by the injuries received in said collision by said steamship "Selja," and that, as libelant believes and therefore alleges, said injuries were caused by the fault of those in charge of the navigation of said steamship "Beaver."

V.

That by reason of said collision, the owners and other persons on whose behalf libelant, as bailee of said cargo, intervenes in said libel, have suffered damage in a sum which, on information and belief, he alleges will probably amount to the sum of Four Hundred Thousand Dollars ($400,000).

VI.

That, as libelant is informed and believes, there are a great number of persons in various parts of the world who are interested in said cargo as owners, insurers or otherwise; that the names and address of said owners or other interested parties are unknown to this libelant; and that he intervenes in the above-entitled cause of action, on behalf of said unknown parties, as bailee of their goods and for the protection of their numerous and scattered interests.

VII.

That all and singular the premises are true and

are within the admiralty and maritime jurisdiction of this Court. [19]

WHEREFORE libelant prays that process in due form of law according to the practice of this Honorable Court in causes of admiralty and maritime jurisdiction may issue against said American steamship "Beaver," her engines, boilers, tackle, apparel, furniture, boats and appurtenances, and that all persons claiming any right or interest therein may be cited to appear and answer all and singular the matters aforesaid; that this Honorable Court will be pleased to decree the payment of the damages alleged herein with interest and costs; and that said vessel, her engines, boilers, tackle, apparel, furniture, boats and appurtenances may be condemned and sold to pay the same; and that libelant may have such other and further relief in the premises as in law and in justice he may be entitled to receive.

Dated: December 3d, 1910.

LOUIS T. HENGSTLER,

Proctor for Libelant as Bailee of the Cargo of the Steamship "Selja." [20]

United States of America,
Northern District of California,—ss.

Olaf Lie, being first duly sworn, on oath deposes and says:

That he is the libelant above named and has full power and authority as bailee of said cargo to represent all parties on behalf of whom he is suing in the foregoing libel. That he has read the foregoing libel and knows the contents thereof, and that the same is true of his own knowledge, except as to

the matters therein stated on information and belief, and as to those matters he believes it to be true.

OLAF LIE.

Subscribed and sworn to before me this 3d day of December, 1910.

[Seal] JAS. P. BROWN.

[Endorsed]: Filed Dec. 3, 1910. Jas. P. Brown, Clerk. By M. T. Scott, Deputy Clerk. [21]

In the District Court of the United States for the Northern District of California.

IN ADMIRALTY.

OLAF LIE, Master of the Norwegian Steamship "SELJA," on Behalf of Himself and the Owners, Officers and Crew of said Steamship,

Libelant,

vs.

The American Steamship "BEAVER," Her Engines, Boilers, Tackle, Apparel, Furniture, Boats and Appurtenances,

Libelee.

Stipulation as to Personal Effects of Steward and Carpenter of S. S. "Selja."

It is hereby stipulated and agreed by and between the parties hereto that the value of the personal effects of Wong Hai, steward of the S. S. "Selja," lost in the collision herein, was $791.10, and that the value of those of Choy Hoy, carpenter on said "Selja," also so lost, was $284.75, and that no further proof

need be made of said amounts.

Dated: December 6th, 1910.

McCLANAHAN & DERBY,
Proctors for Libelant.

PAGE, McCUTCHEN, KNIGHT & OLNEY,
WILLIAM DENMAN,
Proctors for Claimant.

[Endorsed]: Filed Dec. 12, 1910. Jas. P. Brown, Clerk. By M. T. Scott, Deputy Clerk. [22]

In the United States District Court, in and for the Northern District of California.

IN ADMIRALTY—No. 15,099.

OLAF LIE, Master of the Norwegian Steamship "SELJA," on Behalf of Himself and the Owners, Officers and Crew of Said Steamship,
Libelant,

vs.

The American Steamship "BEAVER," Her Engines, Boilers, Tackle, Apparel, Furniture, Boats and Appurtenances,
Libelee.

Answer of the San Francisco and Portland Steamship Company to Libel.

To the Honorable JOHN J. DE HAVEN, Judge of the District Court of the United States for the Northern District of California:

The answer of the San Francisco & Portland Steamship Company, a corporation, owner of the American Steamship "Beaver," her Claimant here-

in, to the libel of Olaf Lie, master of the Norwegian steamer "Selja," alleges and denies as follows:

I.

Answering article I of the said libel alleges that it is ignorant of the value of the Norwegian steamer "Selja" at the time just before the collision in the libel mentioned, or at any time, wherefore it calls for proof of the said value if the same be pertinent.

II.

Answering article IV of the said libel, claimant alleges that it is ignorant as to all the matters therein alleged concerning the said steamer "Selja" to and including the hour of three P. M., wherefor it calls for proof of the same if the same be pertinent; admits that at three o'clock P. M. the Master of the steamer "Selja" heard the whistle of the steamer "Beaver" ahead of [23] the "Selja," though at what distance and whether or not dead ahead claimant is ignorant, wherefore it calls for proof of the same if the same be pertinent; alleges that it is ignorant as to whether the whistle of the "Beaver" was at once answered by long blasts of the "Selja's" whistle or at all, wherefore it calls for proof of the same if the same be pertinent; admits that the "Selja" did not stop her engines when she heard the whistle of the "Beaver" ahead of her and alleges that the "Selja" continued on her course without stopping her engines for many minutes at a high rate of speed in said fog, to wit, more than six knots per hour, until she was thereby driven forward to the point where her course crossed the course of the "Beaver," where she was allowed to stop dead

in the water; alleges that she lay at a standstill in the water where she had been thus driven across the course of the "Beaver" for many minutes, as claimant is informed and believes and therefore alleges, at least five minutes; admits that at 3:10 P. M. the "Selja's" engines were stopped; alleges that it is ignorant as to how long they had been stopped or as to their speed, if any, between 3:05 and 3:10 P. M., but in that behalf alleges that at 3:10 P. M. the "Selja" was almost at a standstill in the water; denies that she was making three knots per hour at 3:10 P. M., and in that behalf alleges that she was almost at a standstill, as aforesaid; alleges that it is ignorant as to the course of the "Selja," wherefore it calls for proof thereof if the same be pertinent; alleges that it is ignorant as to whether the fog signals of the "Selja" had been regularly, or at all, answering the signal of the "Beaver," save that the "Selja" on two occasions blew a signal of one long blast, once at about 3:13½ P. M. and once about a minute later, wherefore it calls for proof of the other signals, if any, given by the "Selja" if the same be pertinent; denies that the steamer "Beaver" suddenly appeared, or appeared, through the fog at about two points on the "Selja's" bow, and denies that it was going at a very high rate of speed, to [24] wit, a speed of eleven knots an hour or more; denies that the "Beaver" came on without checking her speed or changing her course, and in that behalf alleges that during all the time described and for thirty seconds prior to coming within sight of the "Selja" the engines of the "Beaver" were going at

full speed astern and that her head was swinging rapidly to starboard with the intent of stopping the said "Beaver," or, if impossible, to pass astern of the said steamer "Selja."

III.

Answering Article V, claimant denies that the said collision was in no way due to any fault on the part of the "Selja," and in this behalf alleges that the collision was due to the acts hereinabove described and to a further fault on the part of the "Selja," to wit, in the fact that her commander, Olaf Lie, was ignorant of Article 16 of the International Rules, which reads as follows:

> "Every vessel shall, in a fog, mist, falling snow, or heavy rainstorms, go at a moderate speed, having careful regard for the existing circumstances and conditions.
>
> A steam vessel hearing, apparently forward of her beam, the fog-signal of a vessel the position of which is not ascertained shall, so far as the circumstances of the case admit, stop her engines, and then navigate with caution until danger of collision is over."

by reason whereof he failed to stop his engines when he heard the whistle of the "Beaver" and continued the said vessel in said fog at an excessive speed, to wit, six knots, until he had driven her to the point where the course of the "Beaver" crossed the course of the "Selja," where he permitted her to lie at a standstill under the circumstances hereinbefore described.

IV.

Answering Article VI of the said libel, claimant admits that the owners, officers and crew of the steamer "Selja" suffered damage in the loss of the said steamer, her equipment, stores, munitions and freight, and the effects of the Master and mariners [25] on board; alleges that it is ignorant of the amount of the said loss and damage, wherefore it calls for proof thereof if the same be pertinent.

V.

As a separate and further defense claimant alleges that by reason of the acts of the "Selja" as herein described a collision occurred between the "Selja" and the "Beaver," whereby the "Selja" inflicted damages on the hull of the "Beaver" in excess of the sum of Twenty-one Thousand Five Hundred Dollars ($21,500), and caused her to be laid up during the reparation of the said injury for fifteen (15) days, during which time claimant was damaged in the nature of demurrage through the loss of the use of said vessel, in the sum of Fourteen Thousand Dollars ($14,000).

VI.

As a further and separate defense to the said action, claimant alleges that by reason of the said collision cargo on the steamer "Selja" of a great value, amounting to more than Two Hundred Thousand Dollars ($200,000), but how much more claimant does not know, was sunk with the said steamer, and that if it should be held that both the said steamers were in fault in the said collision, the negligent acts of the "Selja" hereinbefore described would occa-

sion a further liability on the part of the "Beaver" for all of the value of the said cargo so destroyed or lost.

WHEREFORE, claimant prays that libelant take nothing by its libel, and that claimant be hence dismissed with its costs, and that the stipulators on the stipulation heretofore filed herein be discharged from all liability, and further prays that in the event both of the vessels herein be found in fault, that the damages of the two vessels be apportioned under the usual rule of cross-liabilities, and that if any balance be due from the "Beaver" to the "Selja," that there be deducted therefrom one-half the value of the cargo lost by the said joint negligence if any be found, and for such [26] other and further relief as may in the premises seem meet.

PAGE, McCUTCHEN, KNIGHT & OLNEY,
WILLIAM DENMAN,
Proctors for San Francisco & Portland Steamship Company, Claimant of Steamer "Beaver."

[27]

City and County of San Francisco,
State of California,—ss.

R. P. Schwerin, being first duly sworn, deposes and says:

That he is an officer, to wit, vice-president and general manager of the San Francisco & Portland Steamship Company; that he has read the foregoing answer and knows the contents thereof; that all the matters therein stated are alleged on his information

and belief, and that as to those matters he believes it to be true.

R. P. SCHWERIN.

Subscribed and sworn to before me this 18th day of January, 1911.

[Seal] GENEVIEVE S. DONELIN,
Notary Public in and for the City and County of San Francisco, State of California.

[Endorsed]: Filed Jan. 8, 1911. Jas. P. Brown, Clerk. By M. T. Scott, Deputy Clerk. [28]

In the District Court of the United States in and for the Northern District of California.

OLAF LIE, Master of the Norwegian Steamship "SELJA," etc.,

Libelant,

vs.

The American Steamship "BEAVER," Her Engines, Boilers, Tackle, Apparel, Furniture, Boats and Appurtenances,

Libelee.

Answer of the San Francisco and Portland Steamship Company to the Libel of Intervention.

To the Honorable J. J. DE HAVEN, Judge of the District Court of the United States, for the Northern District of California:

The answer of the San Francisco & Portland Steamship Company, a corporation, owner of the American steamship "Beaver," her claimant herein, to the libel of intervention of Olaf Lie, Master of the

Norwegian steamer "Selja," alleges and denies as follows:

I.

Alleges that it is ignorant of the value of the cargo of the steamer "Selja" immediately before the said collision, or at all, wherefore it calls for proof thereof if the same be pertinent.

II.

Denies that the total loss of the cargo or any loss of the cargo as alleged in Article IV of the said libel, or at all, or that any of the injuries to the said cargo, or to the steamship "Selja," were caused by the fault of those, or any of them, in charge of the navigation of the said steamship "Beaver."

III.

Answering Article V of the said libel alleges that it is ignorant of the amount, if any, the owners and other persons, or [29] any of them on whose behalf libelant intervening is bailee of the said cargo, have suffered by reason of the loss of any of the said cargo in said collision, wherefore it calls for the proof of any and all of said losses, if the same be pertinent.

IV.

Admits that all and singular the premises are in the admiralty and maritime jurisdiction of this court, but denies that any of the same are true save as hereinabove alleged or admitted.

Wherefore, claimant prays that Olaf Lie, as said intervenor, and the said alleged owners of cargo on the steamer "Selja," and each of them, take nothing by reason of the said libel of intervention, and that

claimant be hence dismissed with its costs, and that the stipulators on the stipulation filed herein for the release of the said steamer "Beaver" be exonerated, and for such other relief as may in the premises seem meet.

PAGE, McCUTCHEN, KNIGHT & OLNEY,
WILLIAM DENMAN,
Proctors for Claimant. [30]

State of California,
City and County of San Francisco,—ss.

A. J. Frey, being first duly sworn, deposes and says:

That he is the managing agent of the San Francisco & Portland Steamship Company, the claimant herein; that he has read the foregoing answer and knows the contents thereof; that all the matters therein stated are true of his own knowledge except those matters therein stated on information and belief, and as to such matters he believes it to be true.

A. J. FREY.

Subscribed and sworn to before me this 3d day of February, 1911.

[Seal] GENEVIEVE S. DONELIN,
Notary Public in and for the City and County of San Francisco, State of California.

[Endorsed]: Filed Feb. 3, 1911. Jas. P. Brown, Clerk. By M. T. Scott, Deputy Clerk. [31]

At a stated term of the District Court of the United States of America for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Tuesday, the 28th day of February, in the year of our Lord, one thousand nine hundred and eleven. Present: The Honorable JOHN J. DE HAVEN, Judge.

No. 15,099.

Order Permitting St. Paul Fire and Marine Insurance Co. to Intervene.

OLAF LIE, etc.,

vs.

Am. S. S. "BEAVER," etc.

The motion for an order permitting the St. Paul Fire and Marine Insurance Company to intervene herein this day came on for hearing, F. R. Wall, Esqr., appearing for and Thomas A. Allan, Esqr., appearing against said motion, and after hearing proctors, by the Court ordered that said motion be, and the same is hereby granted. [32]

At a stated term of the District Court of the United States of America for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Friday the 12th day of May, in the year of our Lord one thousand nine hundred and eleven. Present: The Honorable JOHN J. DE HAVEN, Judge.

No. 15,099.

OLAF LIE, Master, etc.,

vs.

The American Str. "BEAVER," etc.

No. 15,130.

PORTLAND & ASIATIC STEAMSHIP COMPANY

vs.

SAN FRANCISCO & PORTLAND STEAMSHIP COMPANY.

Order Consolidating Causes and Referring Same to a Commissioner.

The motion to consolidate these causes for trial and for an order of reference, this day came on for hearing, and after hearing E. B. McClanahan, Esqr., in behalf of said motion and other proctors in opposition thereto, by the Court ordered that said causes be, and they are hereby consolidated for trial, and said causes as consolidated be, and they are hereby referred to Jas. P. Brown, United States Commissioner, to take the evidence to be offered by the respective parties and to report the same to the Court within thirty days from this date. [33]

In the District Court of the United States for the Northern District of California.

IN ADMIRALTY.

OLAF LIE, Master of the Norwegian Steamship "SELJA," on Behalf of Himself and the Owners, Officers and Crew of said Steamship,
Libelant,

vs.

The American Steamship "BEAVER," her Engines, etc.,
Libelee.

SAN FRANCISCO & PORTLAND STEAMSHIP CO., a Corporation,
Claimant.

Stipulation [That Libelant was Owner of Certain Personal Effects, etc.].

It is hereby stipulated between the respective parties hereto that the libelant, Olaf Lie, was the legal owner of the personal effects of his wife and two children which were lost in the collision between the steamship "Selja" and the steamship "Beaver," and that his right to testify as to the loss of said personal effects, what they consisted of and their value is not to be questioned.

Dated: April 25th, 1911.

PAGE, McCUTCHEN, KNIGHT & OLNEY,
Proctors for Claimant.

McCLANAHAN & DERBY,
Proctors for Libelant.

[Endorsed]: Filed Jun. 9, 1911. Jas. A. Brown, Clerk. By Francis Krull, Deputy Clerk. [34]

In the District Court of the United States in and for the Northern District of California.

No. 15,099.

OLAF LIE, Master of the Norwegian Steamship "SELJA," on Behalf of Himself and the Owners, Officers and Crew of said Steamship,

Libelant,

vs.

The American Steamship "BEAVER," her Engines, etc.,

Libelee.

SAN FRANCISCO & PORTLAND STEAMSHIP CO., a Corporation,

Claimant.

CONSOLIDATED FOR TRIAL.

No. 15,099.

AND

OLAF LIE, Master of the Norwegian Steamship "SELJA," etc.,

Libelant,

vs.

The American Steamship "BEAVER," her Engines, etc.,

Libelee.

SAN FRANCISCO & PORTLAND STEAMSHIP COMPANY, a Corporation,

Claimant.

No. 15,130.

AND

PORTLAND & ASIATIC STEAMSHIP COMPANY, a Corporation,

Libelant,

vs.

SAN FRANCISCO & PORTLAND STEAMSHIP COMPANY, a Corporation,

Respondent. [35]

Stipulation as to Depositions of Axel Andersen et al.

It is hereby stipulated by the proctors for the respective parties that the evidence embodied in the depositions of Axel Andersen, Arvid Bjorn, Rambek Eggen, Alfred Halvorsen, Pedar Hensen, and Alfred Larsen, heretofore taken in the suit of Olaf Lie, Master, etc., vs. S. S. "Beaver" and now on file in the Clerk's office of the above-entitled court, may be considered and taken as evidence in the above-entitled and consolidated causes.

And it is further agreed that all stipulations heretofore entered into in said suit are to be considered and taken as binding on the respective parties in the above-entitled and consolidated causes.

Dated: May 16th, 1911.

PAGE, McCUTCHEN, KNIGHT & OLNEY,

.....

.....

Proctors for San Francisco & Portland S. S. Co., Claimant S. S. "Beaver."

LOUIS T. HENGSTLER,

Proctor for Olaf Lie etc., in Suit of Cargo Interests.

McCLANAHAN & DERBY,

Proctors for Olaf Lie, etc., in Suit for Interest of Owners, Master and Crew of S. S. "Selja."

McCLANAHAN & DERBY,

Proctors for Portland & Asiatic S. S. Co., in Suit for Freight Interest.

[Endorsed]: Filed Jun. 9, 1911. Jas. P. Brown, Clerk. By Francis Krull, Deputy Clerk. [36]

[Minutes of Trial—January 18, 1912.]

At a stated term of the District Court of the United States of America for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Thursday, the 18th day of January, in the year of our Lord, one thousand nine hundred and twelve. Present: The Honorable R. S. BEAN, Judge.

No. 15,099.

OLAF LIE, etc., et al.,

vs.

The American S. S. "BEAVER," etc.

No. 15,130.

PORTLAND & ASIATIC S. S. CO.

vs.

The American S. S. "BEAVER," etc.

These causes as consolidated for trial this day came on for hearing, Charles Page, Esqr., and Wm. Denman, Esqr., appearing as proctors for the claimant of the steamship "Beaver," and E. B. McClanahan, Esqr., and S. H. Derby, Esqr. appearing as proctors for libelants and L. T. Hengstler, Esqr., appearing as proctors for intervenor. Mr. McClanahan introduced in evidence all the testimony given by the officers of the steamship "Selja." Mr. Page argued the case on behalf of claimant and there-

upon the further argument of the causes was continued until Jan. 22, 1912. [37]

[Minutes of Trial—January 22, 1912.]

At a stated term of the District Court of the United States of America for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Monday, the 22d day of January, in the year of our Lord one thousand nine hundred and twelve. Present: The Honorable R. S. BEAN, Judge.

No. 15,099 and Consolidated Case #15,130.

OLAF LIE, etc., et al.,

vs.

The S. S. "BEAVER," etc.

These causes this day came on for further argument and after hearing Wm. Denman, Esq., proctor for respondent, L. T. Hengstler, Esq., for intervenor, and E. B. McClanahan, Esq., for libelants, the further argument was continued until Jan. 23, 1912. [38]

[Minutes of Trial—January 23, 1912.]

At a stated term of the District Court of the United States of America for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Tuesday, the 23d day of January, in the year of our Lord one thousand nine hundred and twelve. Present: The Honorable R. S. BEAN, Judge.

No. 15,099 and Consolidated Case #15,130.

OLAF LIE, etc., et al.

vs.

The S. S. "BEAVER," etc.,

These causes this day came on for further argument, and after hearing E. B. McClanahan, Esqr., for libelant, by the Court ordered that the further argument be, and same is hereby continued until Jan. 24, 1912. [39]

[Minutes of Trial—January 24, 1912.]

At a stated term of the District Court of the United States of America for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Wednesday, the 24th day of January, in the year of our Lord one thousand nine hundred and twelve. Present: The Honorable R. S. BEAN, Judge.

No. 15,099 and Consolidated Case #15,130.

OLAF LIE, et al.,

vs.

S. S. "BEAVER," etc.

[Order of Submission.]

These causes this day came on for further argument; and after hearing E. B. McClanahan, Esqr., for libelants and Wm. Denman, for respondent, by the Court ordered that said causes stand submitted to the Court for decision. Defendant granted leave to file brief; all briefs to be in within thirty days from date. [40]

In the District Court of the United States for the Northern District of California.

IN ADMIRALTY.

OLAF LIE, Master of the Norwegian Steamship "SELJA," on Behalf of Himself and the Owners, Officers and Crew of Said Steamship,

Libelant,

vs.

The American Steamship "BEAVER," Her Engines, Boilers, Tackle, Apparel, Furniture, Boats and Appurtenances,

Libelee.

Stipulation for Taking Depositions [of Axel Andersen et al.].

It is hereby stipulated and agreed by and between the proctors for the respective parties herein that the depositions of Axel Anderson, Arvid Bjorn, Rambek Eggen, Alfred Halvorsen, Pedar Hensen and Alfred Larsen, witness on behalf of the libelant herein and who are about to go out of the United States and who will not be present at the trial, may be taken *de bene esse* at the offices of McClanahan & Derby, in the Merchants' Exchange Building, in the City and and County of San Francisco, State of California, on the 2d day of December, 1910, at 9 o'clock A. M. before James P. Brown, a United States Commissioner for the Northern District of California, and in shorthand by a competent stenographer appointed by him for that purpose.

It is further stipulated that the said depositions

when written out may be read in evidence by either party on the trial of this cause; that all questions as to notice of the time and place of taking the same are waived and that all objections [41] to the form of the questions are waived unless made at the time of taking said depositions.

It is further stipulated that the reading over of the said depositions to or by the said witnesses and the signing thereof by them are hereby expressly waived.

Dated: December 1st, 1910.

McCLANAHAN & DERBY,
Proctors for Libelant,
PAGE, McCUTCHEN, KNIGHT & OLNEY,
WILLIAM DENMAN,
Proctors for Libelee and Claimant. [42]

In the District Court of the United States in and for the Northern District of California.

OLAF LIE, Master of the Norwegian Steamship "SELJA," on Behalf of Himself and the Owners, Officers and Crew of Said Steamship,
Libelant,

vs.

The American Steamship "BEAVER," Her Engines, Boilers, Tackle, Apparel, Furniture, Boats and Appurtenances,
Libelee.

Depositions of Axel Andersen et al.

BE IT REMEMBERED that on Friday, December 2d, 1910, pursuant to stipulation of counsel here-

(Deposition of Alfred Halvorsen.)

unto annexed, at the office of Messrs. McClanahan & Derby, in the Merchants' Exchange Building, in the City and County of San Francisco, State of California, personally appeared before me, James P. Brown, a United States Commissioner for the Northern District of California, to take acknowledgments of bail and affidavits, etc., Axel Anderson, Arvid Bjorn, Rambek Eggen, Alfred Halvorsen, Peder Hansen and Alfred Larsen, witnesses produced on behalf of the libelant.

Messrs. McClanahan & Derby appeared as proctors for the libelant, and William Denman, Esq., and Charles Page, Esq., of the firm of Messrs. Page, McCutchen, Knight & Olney, appeared as proctors for the libelee and claimant, and the said witnesses, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid, did thereupon depose and say as is hereinafter set forth. [43*—1†]

[Deposition of Alfred Halvorsen, for Libelant.]

ALFRED HALVORSEN, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. What is your full name? A. Alfred Halvorsen.

Q. How old are you? A. 29.

Q. What is your residence?

A. My residence is Bergen, Norway.

Q. Are you a Norwegian by birth?

A. Yes, sir.

Q. What is your business or profession?

*Page-number appearing at foot of page of certified Transcript of Record.

†Original page-number appearing at foot of page of Depositions as same appears in Certified Transcript of Record.

(Deposition of Alfred Halvorsen.)

A. My business?

Q. Yes. A. I was first officer on the "Selja."

Q. How long have you followed the sea?

A. 12 years; a little over.

Q. What papers do you hold?

A. First officer.

Q. How long have you held them?

A. Three years and about three months.

Q. Issued by who?

A. The Norwegian government.

Q. How long have you been with the steamship "Selja?" A. Ever since she was built.

Q. When was that? A. 1907.

Q. Do you know where she was built?

A. West Hartlepool.

Q. England? A. Yes, sir.

Q. You were on the "Selja" at the time of the collision with the steamship "Beaver"?

A. Yes, sir.

Q. What day of the month was that?

A. The 22d of November.

Q. This year? A. This year.

Q. When was your first watch on November 22d?

A. 4 to 8 A. M.

Q. When you went on the bridge at 4 o'clock, who was there?

A. The captain and also the third officer.

Q. You relieved the third officer, did you?

A. Yes, I relieved the third officer.

Q. What was the course that the steamship "Selja" was steering at that time?

(Deposition of Alfred Halvorsen.)

A. We were then steering in the great circle course, south 52 east. [44—2]

Q. True or magnetic? A. True.

Q. What was the weather at that time?

A. Calm and foggy, and a westerly swell.

Q. What was the speed of your ship at that time?

A. Full speed.

Q. How long did your engines remain at full speed after you went on the bridge at 4 o'clock?

A. Until 5:30.

Q. What did you do at 5:30, if anything?

A. I went aft to take the first sounding.

Q. Prior to going aft to take these first soundings what had you been doing on the bridge?

A. I do not understand.

Q. Read the question, Mr. Reporter.

(The reporter reads the question.)

A. Before that I had been sounding the whistle.

Q. What whistle was that?

A. The fog whistle.

Q. How often did you sound the fog whistle?

A. About every minute.

Q. What kind of a whistle is that?

A. It is a fine whistle.

Q. How was it operated, by hand or by steam?

A. It is a steam whistle; there is a line leading down to the bridge; it is operated by hand.

Q. It is not automatically operated?

A. No, sir.

Q. One end of the line is attached to the whistle; where is the other end attached?

(Deposition of Alfred Halvorsen.)

A. It is attached on the bridge.

Q. Whereabouts?

A. Close to the compass in the amidships.

Q. Is that in the wheelhouse or outside?

A. In the wheelhouse.

Q. How did you operate that whistle?

A. Just put the hand on it and draw it.

Q. Both ends of the line are attached to something, one at the whistle and one to the forepart of the wheelhouse? A. Yes, sir.

Q. Where did you go to take these first soundings at 8:50? [45—3] A. To the poop.

Q. How did you take the soundings?

A. By the sounding machine.

Q. What kind of a sounding machine had the "Selja"? A. Lord Calvius latest patent.

Q. Had there been any soundings taken prior to that? A. No, sir.

Q. How were the "Selja's" engines being operated up to the time you took the first sounding?

A. It was running full speed.

Q. Were the "Selja's" engines changed after that?

A. Yes. When I got back to the bridge it was running half speed.

Q. When you got back to the bridge from taking the first sounding? A. Yes, sir.

Q. What was the speed of the "Selja" during the balance of your watch as shown by the engines?

A. Half speed.

Q. That is up to 8 o'clock?

(Deposition of Alfred Halvorsen.)

A. Up to 8 o'clock.

Q. How often after taking this first sounding at 5:30 did you take soundings?

A. Every half hour.

Q. Up to what time? A. Till 8 o'clock.

Q. When you were not taking soundings what were you doing?

A. I remained on the bridge blowing the whistle.

Q. Was the whistle being blown while you were taking soundings? A. Yes, sir.

Q. Who blew it? A. The captain.

Q. How often were your whistles sounded?

A. About every minute.

Q. Do you remember the last sounding that you took at 8 o'clock? A. Yes, sir.

Q. What was it? A. 45 fathoms.

Q. What was the course during the time you were on that watch? A. The same course, 52.

Q. What?

A. South, 52 east, true. The great circle course.

Q. Who relieved you, Mr. Halvorsen?

A. The second officer. [46—4]

Q. Do you know who was in the engine-room during your watch? A. The chief engineer.

Q. After you had been relieved where did you go?

A. I went down in my room and prepared for breakfast.

Q. After leaving the bridge at 8 o'clock when did you next go on the bridge?

A. At about 9 o'clock; after I had my breakfast.

Q. Do you know whether the ship's course had

(Deposition of Alfred Halvorsen.)

been changed at 9 o'clock or at about 9 o'clock when you went on the bridge the second time?

A. Yes, it had been changed.

Q. Do you know what the change was?

A. I know she was heading right on the swell.

Q. And the swell you say was westerly?

A. Westerly swell.

Q. Do you know whether her speed had been changed when you went on the bridge at 9 o'clock?

A. Yes, sir.

Q. What was the change?

A. She was running dead slow.

Q. And prior to that she had been running half speed? A. Half speed until 8 o'clock.

Q. What did you do after you went on the bridge at 9 o'clock?

A. I went down again on deck, giving the boatswains some orders as I superintended the work together with the boatswains.

Q. Did you notice after 9 o'clock any change in the speed of the "Selja"?

A. Yes; somewhere around 9:30 it was changed.

Q. The speed? A. Not the speed.

Q. What? A. The course.

Q. The course was changed. Do you know what that change was?

A. She was going with the swell then.

Q. Do you know of any change in the course of the "Selja" after 9:30?

A. Yes; about 11 o'clock she was changed again.

Q. What was the change then?

(Deposition of Alfred Halvorsen.)

A. She was on the swell once more. [47—5]

Q. Heading on the swell?

A. Heading on the swell.

Q. Do you know whether she changed her speed after you observed that it was dead slow at 9 o'clock?

A. No, it was the same speed, just as much as the engines were going.

Q. "Just as much as the engines were going"; what do you mean by that?

A. Just as much as they were going around, as far as I could feel it on the ship by the vibration.

Q. Make that a little clearer, Mr. Halvorsen. Do you mean that the vibrations showed you that the engines were going dead slow? A. Yes, sir.

Q. After going on the bridge at 9 o'clock did you again go on the bridge?

A. Not until 1 o'clock.

Q. You went on at 1 o'clock; what did you go on then for?

A. When we had our lunch together—I was eating together with the captain—the captain said he would try; it seemed to him that the fog had lifted a little; and then I went on the bridge at 1 o'clock to get orders.

Q. Did you notice then the course of the steamer?

A. Yes, sir.

Q. What was it at 1 o'clock?

A. To 1 o'clock it was on the swell and then it changed around and then we were steering south 60 east magnetic.

Q. Were the engines changed from dead slow to

(Deposition of Alfred Halvorsen.)

your knowledge? A. Yes, sir.

Q. At what time? A. 1 o'clock.

Q. What was the order to the engine-room, do you know?

A. I don't know the orders but she was running at six knots.

Q. How do you know she was running then at six knots?

A. Well, just afterwards I went aft to take soundings every 5 minutes.

Q. Those were the orders that the captain gave you when you went [48—6] on the bridge?

A. Yes, sir.

Q. You say you went aft to take these soundings; then what?

A. I notified the log every five minutes.

Q. Excuse me. What do you mean by notifying the log? A. I read the log.

Q. You noticed the log? A. Yes.

Q. You noticed the log, and what?

A. I noticed the log and put it down on a slip of paper,—I should say the soundings and the time.

Q. The soundings and the time.

A. The soundings and the time, every five minutes, and by that I found she was going exactly six knots.

Q. How long did you take these soundings every five minutes? A. Up to about a quarter to 3.

Q. Up to that time, Mr. Halvorsen, what was the weather?

A. Fog, calm. There might have been a little wind, but as far as I could judge it was practically

(Deposition of Alfred Halvorsen.)

calm and a westerly swell.

Q. At a quarter of 3 o'clock you say you stopped taking soundings? A. Yes, sir.

Q. Were you relieved by anyone?

A. I was relieved by the second officer.

Q. What did you do after a quarter of 3?

A. I went on the bridge.

Q. Who did you find on the bridge at that time?

A. The captain and the third officer.

Q. What did you go on the bridge for?

A. Because the captain was waving his hands; I thought he saw something, and I was going to find out, and then I told Mr. Larsen to relieve me,—the second officer.

Q. Then when you went on the bridge what did you find out?

A. I heard the sound signals from Point Reyes, which I could not [49—7] hear on the poop.

Q. Is that what the captain was waving his hands at? A. Yes.

Q. Do you know? A. Yes, sir.

Q. What time was it that you heard the sound signal from Point Reyes?

A. When I got on the bridge I should think it was a few minutes to 3.

Q. Where was it bearing?

A. What do you mean?

Q. I mean where was the sound bearing when you first heard it?

A. I should say a little abaft the beam.

Q. A little abaft the beam. How often did that

(Deposition of Alfred Halvorsen.)

sound signal sound? A. Every 35 seconds.

Q. How do you know that? A. I timed it.

Q. After you reached the bridge you timed the sound signals? A. I timed it.

Q. Did you take any bearings of that sound signal? A. Yes, I did.

Q. When? A. At 3 o'clock.

Q. What was the bearing?

A. North, magnetic.

Q. North, magnetic. How do you know it was 3 o'clock when you took that bearing?

A. I took the bearing and then I looked on the clock in the chartroom, just close to the compass.

Q. After that did you hear any other fog signals?

A. Yes; about the same time or a minute or so after I heard one whistle.

Q. Where was that? A. On the port bow.

Q. Could you tell what it was?

A. No, I was not quite sure what it was.

Q. Was it a near or far-away whistle?

A. It sounded far-away.

Q. After hearing this one whistle on your port bow where did you go? Or what did you do? [50—8]

A. Then I left the bridge, a minute or so after.

Q. What for?

A. The boy had been there and told me coffee was ready, was served.

Q. Where did you take your coffee?

A. In the chief engineer's room.

Q. Do you know what the speed of the "Selja"

(Deposition of Alfred Halvorsen.)

was or how her engines were working at the time you left the bridge?

A. She was running with the same speed; 6 knots I should say.

Q. Do you know what her course was at that time?

A. Yes. The course had been changed after we passed Point Reyes.

Q. After you passed Point Reyes the course was changed? Do you know what the course was then?

A. Yes, sir.

Q. What was it?

A. South 65 east, magnetic.

Q. Did you hear any bells from your engine-room after you left the bridge a little after 3?

A. Yes. When I went to my coffee I heard the telegraph ring.

Q. Did you know at the time what that order was to the engine-room? A. No.

Q. After you had your coffee what did you do?

A. I took a trip around the decks, saw the boatswain and told him about some things I wanted to be done.

Q. Then what did you do?

A. I went on the poop to find out if the second officer had got his coffee.

Q. When you went on to the poop do you know how your engines were running then as compared with how they had been running when you were on the bridge?

A. They were not running at all.

(Deposition of Alfred Halvorsen.)

Q. They had stopped when you went on the poop?

A. Stopped; they were not running.

Q. Do you know whether your whistle had been sounding up to that time?

A. Yes; it had been sounding all the time. [51—9]

Q. Did you hear any more of the whistles from the port bow that you had heard on the bridge?

A. I did not pay any attention to it.

Q. Did you relieve the second officer?

A. No, sir.

Q. Why not?

A. While I was on my way I heard three whistles from the "Selja."

Q. What did you do then?

A. I turned myself around to look for an approaching ship.

Q. Did you see anything? A. Yes, I saw.

Q. What did you see?

A. I saw a dark shape on the port bow, about three points or so on the port bow, which later on took the shape of a vessel.

Q. When you saw this vessel on the port bow what did you do? A. I watched her coming.

Q. Where were you standing when you watched her?

A. I went out to the wing, to the port side railing on the poop.

Q. Did you hear any signals from this approaching vessel?

(Deposition of Alfred Halvorsen.)

A. I am not quite sure of that; I did not pay any attention to it.

Q. Do you know how this steamer approached you, whether she was coming fast or whether she was coming slow?

A. She seemed to be coming very fast to me.

Q. How do you judge that she was coming fast?

A. By the way she cut the water, the foam on the bow.

Q. While she was approaching what were you doing? A. I was watching her all the time.

Q. Did you see the impact? A. No, sir.

Q. Could you see her speed up to the time just immediately before the impact? A. Yes, sir.

Q. Do you know whether the "Selja" as you watched the "Beaver" [52—10] had any sternway or headway?

A. She had a little sternway.

Q. How do you know that?

A. After the three whistles were blown the engines were started; by looking at the direction of the "Beaver" and also down at the water, I could see the back water from the propeller coming alongside the ship.

Q. Alongside of what ship? A. The "Selja."

Q. How far could you see this back water from the propeller of the "Selja" running along the side of the "Selja"?

A. I could see as far as to where she hit, the place where she struck us.

Q. Before you heard the three whistles of the

(Deposition of Alfred Halvorsen.)

"Selja" did you know how the "Selja's" engines were running? A. They were not running at all.

Q. The engines were stopped?

A. Were stopped.

Q. After you saw the "Beaver" first do you know how the "Selja's" engines were running?

A. No, sir.

Q. Do you know whether there was any change in the "Selja's" engines after the three whistles?

A. Yes, sir.

Q. What was the change?

A. I found out afterwards it was full speed astern.

Q. When did you find that out?

A. By looking towards the "Beaver."

Q. What I want to know, Mr. Halvorsen, is whether you noticed any change in the engines after they had been stopped aside from the notice which you got from a view of the backwater of the "Selja's" propeller?

A. I could feel they were started.

Q. When did you feel they were started?

A. Just at the time they blew the three whistles.

Q. Did you see the point of impact?

A. No, sir.

Q. Will you tell what you did after the collision, Mr. Halvorsen, [53—11] briefly?

A. Well, after the collision the ship took a heavy list, and then I thought it must have been a big wound, and so I got all the men together that was standing on the after deck and told them to run to the boats and get them ready as quickly as possible,

(Deposition of Alfred Halvorsen.)

and I got out the port side lifeboat, and then I run over to the starboard side to give a hand there, but that boat we could not get out on account of the heavy list. I saw there was nothing to save, the ship was sinking rapidly, so I jumped in the boat on the port side, the lifeboat; there was a few men left on the deck. They came running, trying to save themselves. I saw the captain jump overboard and swim to the boat, and afterward we pulled over to the "Beaver."

Q. Do you know what became of the "Selja"?

A. The "Selja" sank down; she turned turtle when she got down.

Q. How long after the collision did she sink?

A. Oh, I should judge about 15 minutes or so; she was hanging up and down for some minutes; the poop, you could just see the poop from the water; I should think she was in a position like that for two or three minutes.

Q. Then she sank?

A. Then she turned around and went down and sank.

Q. Were there any lives lost? A. Yes; two.

Q. Who were they?

A. One sailor and one Chinese quartermaster.

Q. Your crew were Chinese, were they?

A. Yes, sir.

Q. Do you know whether the ship's papers were saved or not?

A. Well, the captain throwed the papers—I don't know about it, it is only hearsay—in the boat which

(Deposition of Alfred Halvorsen.)

was smashed alongside the ship.

Q. You have not seen the bridge log of the "Selja" since the [54—12] collision, have you?

A. No, sir.

Q. Was there a log prepared after you had landed here at this port covering the 22d of November?

A. I do not understand the question.

Q. Read the question, Mr. Reporter.

(The reporter reads the question.)

A. Yes, sir.

Q. I hand you a paper and ask you what that is (handing). A. That is the log prepared.

Q. Is your signature on there?

A. Well, I made it myself, yes; it is in my handwriting.

Q. Is your signature on there? A. Yes, sir.

Q. Which is your signature?

A. That is the one (pointing to the name "A. Halvorsen.")

Mr. DENMAN.—Have you a translation of this?

Mr. McCLANAHAN.—I have what I suppose to be a translation. I cannot vouch for it because I do not know anything about the language.

Mr. DENMAN.—Then I am afraid we will have to postpone our cross-examination until we can get our translation.

Mr. McCLANAHAN.—You would not know any more about the translation than I would after you got it, would you, Mr. Denman?

Mr. DENMAN.—Will you stipulate that this is a correct translation?

(Deposition of Alfred Halvorsen.)

Mr. McCLANAHAN.—Yes, but I stipulate that with the reservation that I cannot prove it personally. I believe it to be a true translation.

Mr. DENMAN.—Q. Have you looked over this translation of the log?

A. No, I don't think I have. [55—13]

Mr. McCLANAHAN.—We ask that this paper be marked for Identification Libelant's Exhibit "A."

(The paper is marked "Libelant's Exhibit 'A,' for Identification.")

Q. Mr. Halvorsen, did you have any lookouts at the time and prior to the collision?

A. All the time.

Q. Where were they?

A. On the forecastle-head.

Q. Who were they?

A. A sailor; sometimes a sailor and sometimes a quartermaster.

Q. Do you know who was on watch at the time of the collision?

A. I know the man, I don't know the name.

Q. Was it a quartermaster or a sailor?

A. A sailor.

Q. Did you lose any personal effects because of this collision? A. Yes, quite a lot.

Q. Have you a list of the effects that you lost?

A. Yes, sir.

Q. Can you, without the assistance of that list say what they were?

A. No, not exactly. I have been working on it

(Deposition of Alfred Halvorsen.)

for several days, and there are still more I forgot to put in.

Q. Just refresh your memory, if you can, from an inspection of your list and tell us what you lost. Do you know the value of the things you lost?

A. Not exactly, but I will do my best to get the right value down.

Q. Give your best judgment of their value.

A. Yes.

Q. Is this the value that you place on the goods at the time they were lost?

A. Some of them; some were practically new and I put the same value down then as I bought it for.

Q. But with that exception the value is as of the time that the goods were lost? A. Yes, sir.

Q. Now, will you refresh your memory from the list and tell us what you lost? Take out your list and refresh your memory.

A. I lost my sextant which I paid £9 for in England; besides [56—14] that I paid for a certificate at Norway.

Q. What was the value of the sextant at the time of the collision, when it was lost?

A. The same thing.

Q. How long had you owned it?

A. Three and a half years.

Q. You consider it of the same value?

A. Of the same value.

Q. Go on. A. I lost Nautical Tables.

Q. What do you mean?

A. They differ in value, $2 to $3 apiece. Asimuth

(Deposition of Alfred Halvorsen.)

Table, Great Circle Table, one handbook for officers and one for engineers.

Q. I wish you would give the value, because we are going to be confused, if you do not, of each article as you enumerate them. Will you go back to your Nautical Tables?

A. Nautical Tables; they cost all the way from $1.50 to $2 apiece.

Q. Now, are you giving the value at the time they were lost?

A. No, at the time they were bought; if I want to buy them I have to pay the same for them again; they were just as good as new, too.

Q. In each instance will you please give us the value at the time of the loss of the articles, using your best judgment. You have given us the value of the Nautical Tables; proceed.

A. The Asimuth Table, $1.00 or $1.50. I do not know the exact price but that is to the best of my judgment.

Q. Give us the value of the Great Circle Table?

A. It is $1.00, I think.

Q. What is the value of the handbook for officers?

A. $1.50.

Q. What is the value of the handbook for engineers? A. $2.50. And several other books of the value of $6. New uniform, $30. One blue serge suit, new, $28; one summer suit, $28; six white uniforms, $6.

Q. $6 each or $6 for the six.

A. For the whole bunch; they [57—15] were

(Deposition of Alfred Halvorsen.)

partly worn. 3 uniform caps, $3.

Q. $3 each or for all of them?

A. The whole business. One overcoat, $25; one overcoat with skin collar and sleeves for use on the bridge in cold weather.

Q. What value?

A. $27. A new raincoat, never used, $18. Oilskin coat, $5. One pair of wooden clogs, $1.75; four pair of shoes, $11; one pair of silk bed curtains, $8.50; two pair of white porthole curtains, $1.75; two green cloth portierres, $8; 2 green cloth table cloths, $3.50; two green cloths on top of the washstands $2; two green cloths on top of the writing desk, $2; one inkstand of white metal, $1; two white bedcovers, $7—I don't know if that is the right name for the things or not; I am not quite sure about the name. 3 woolen blankets, $12; two bed pillows, $2; one fancy sofa pillow $2.50; half a dozen pillow slips, $1.50; two mattresses, $4; six woolen undershirts, $8; seven woolen drawers, $8.50; 8 fancy overshirts, $10; five fancy waistcoats, $12; 12 silk handkerchiefs, $2; half a dozen towels, $1; about ten pictures or paintings with frames, $15.

Mr. DENMAN.—Q. Mr. Halvorsen, these figures that you are giving are the total figures for all?

A. For all.

Q. Not apiece; not $15 apiece? A. No.

Q. That is true in each case that you have given before, is it not? In each case you have given the total for the group of items?

A. That is quite right. 800 cigars, $16; one razor,

(Deposition of Alfred Halvorsen.)

$2; hairbrush, 25 cents; clothes brush, 50 cents; tooth brush, 25 cents; shaving brush, 25 cents; shaving stick, 25 cents; a carpet, $5; straw hat, $2; 2 hard hats, derbys, $7; about three dozen collars, $4; half a dozen ties, $2.50; two collar boxes, $2; two pocket knives, $1.50; 12 pair of stockings, $3; two trunks, $8; one canvas bag, $1.50; two pair of garters, $1; three [58—16] pair of suspenders, $1.50; one photo album, $2.50; Norwegian black silk embroidery, $3; a Columbia phonograph, $40, and about 200 records, varying from $1.50 to 65 cents each, about $170.

Mr. McCLANAHAN.—Q. Is that all?

A. That is all. There was much more but I forgot to put it in.

Q. What is the total of that? A. $643.50.

Q. You are a married man, are you?

A. Yes. The ship was my home; I been going on this for several years and getting these things.

Q. Was your wife with you at the time?

A. No, sir.

Cross-examination.

Mr. DENMAN.—Q. What was this item of $170 for phonograph records? When did you buy those?

A. We bought them mostly all in Portland. We bought the phonograph a little over a year ago and in the phonograph we were all partners, but it was kept in my room, and each trip when we were here and heard a nice one and we wanted to have that one, we bought it, perhaps two or three at a time, and a few days later we bought some more.

(Deposition of Alfred Halvorsen.)

Q. Then these records have been in use steadily, haven't they, on the ship?

A. They have been used a little.

Q. Pretty steadily? A. Oh, yes.

Q. Now, you were giving the cost value at $170?

A. No, I was not. There was quite a lot we paid $1.50 apiece and others down to 65 cents apiece, and I reckon we had at least 200 records; we had a box made by the carpenter, and they were put in the box there, and there were four compartments. As far as I can judge there was over 200 records, or about 200.

Q. Then you were giving about what you think they were worth at the time of the loss of the vessel?

A. Yes. Of course they [59—17] were used a little.

Q. Now, this log here that you prepared, I see it is signed by Olaf Lie, Alfred Halvorsen and Bjorn, is the other name—the third officer. Is that correct?

A. Yes.

Q. All these signed this statement on the 23d of November, did not they, the day after? A. Yes.

Q. Then they signed it again yesterday, didn't they? A. The day before yesterday.

Q. Was it day before yesterday or yesterday?

A. The day before yesterday.

Q. That was Wednesday. On Wednesday of this week? A. Yes.

Q. And this is correct—the statements in here are correct? A. The statements are correct.

Q. They read it over and talked it over with you

(Deposition of Alfred Halvorsen.)

before they made it up, didn't they; that is, they talked it over with you before they made it?

A. We talked it over before.

Q. And then after they read it over they approved it as correct, didn't they, and signed their names to it? A. I don't understand.

Q. I say after they had read it—first you talked it over with them, didn't you? A. Yes.

Q. Then you wrote up the log as we have it here?

A. Yes, sir.

Q. And then they read it over and signed their names; that is correct, isn't it?

A. That is correct.

Mr. DENMAN.—That is all.

Mr. McCLANAHAN.—That is all. [60—18]

[Deposition of Rambek Eggen, for Libelant.]

RAMBEK EGGEN, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. What is your full name? A. Rambek Eggen.

Q. What is your age? A. 45.

Q. What is your residence?

A. In Bergen, Norway.

Q. Are you a Norwegian by birth?

A. Yes, sir.

Q. What is your profession? A. Engineer.

Q. Do you know the steamship "Selja"?

A. Yes, sir.

Q. What was your connection with the "Selja"?

A. I was chief engineer of the "Selja."

Q. What papers do you hold?

(Deposition of Rambek Eggen.)

A. Chief engineer's papers.

Q. How long have you held them?

A. For 14 years.

Q. Issued by what government?

A. By the Norwegian government.

Q. Were you chief engineer of the "Selja" on the 22d of November, 1910? A. Yes, sir.

Q. What was your first watch on that day?

A. My watch was from 4 in the morning until 8.

Q. Four hours? A. Four hours.

Q. Who did you relieve?

A. The third engineer.

Q. When you went into the engine-room on watch that morning how were your engines working?

A. They were working full speed ahead.

Q. Was there any change in the working of the engines after 4 o'clock while you were on watch?

A. Yes. We had a change at half-past 5 in the morning.

Q. What was that change?

A. Slow her down to half speed.

Q. After half-past 5 in the morning was there any change on your watch?

A. There was a change at 8 o'clock.

Q. Was that change made before you left the engine-room? A. No. [61—19]

Q. Who made that change?

A. I made that change.

Q. What was the change?

A. To slow speed.

Q. Do you know of any change after the order

(Deposition of Rambek Eggen.)

from the bridge slow speed before you left the engine-room?

A. Not before I left the engine-room but just after I left the engine-room I met the captain and he asked me to slow her down to go as slow as possible, dead slow.

Q. What did you do then?

A. I went down to the engineer, the second engineer, and told him to go dead slow.

Q. There is no dead slow indicator on the telegraph, is there? A. No, sir.

Q. Do you know that the engines were put dead slow? A. Yes, sir.

Q. After your watch, what did you do, chief?

A. I went up and washed myself and rested and went and had my breakfast, and after I had my breakfast I went to my room again and laid down and had a rest till noon. Then at 12 o'clock the second engineer, he brought me the engine-room log slate.

Q. For what watch?

A. From the previous day.

Q. For what?

A. From the previous day at 12 o'clock; from the day before.

Q. What did you do with this log slate?

A. I entered that into my log-book.

Q. What did you next do?

A. I went then and had my dinner.

Q. What was the condition of the weather at that time?

(Deposition of Rambek Eggen.)

A. It was foggy weather, with calm; there was no wind to speak of.

Q. After you had your dinner what did you then do?

A. I went to my room again and commenced work at my log abstracts.

Q. What are they, chief?

A. They are abstracts from the log-book which we use to send home to our owner and our charterer [62—20] for every voyage. That is an abstract for a whole voyage.

Q. Those are made out at the end of the voyage, are they? A. Yes, sir.

Q. How long did you work on your abstracts?

A. I was working up to 3 o'clock.

Q. What did you do then?

A. I had coffee then, drank coffee, and I was sitting in my room, having a smoke, and was reading a little then.

Q. While you were in your room did you hear any of your engine-room bells?

A. Yes; I heard it twice.

Q. While you were in your room? A. Yes, sir.

Q. Do you know whether after hearing the first bell there was a change in the engines?

A. Yes, I could feel that. It was slowed down.

Q. The engines were slowed down after the first bell? A. Yes, sir.

Q. When do you think you heard the first bell?

A. Oh, it was about 5 minutes after 3.

Q. When do you think it was you heard the sec-

(Deposition of Rambek Eggen.)

ond bell after that? A. About five minutes after.

Q. Do you know what the second bell was?

A. It was a stop bell.

Q. How do you know that?

A. Because I heard the engines stop.

Q. After hearing your engines stop what did you do?

A. I stayed in my room for a little while and after I went out on deck. As soon as I came out there I heard the telegraph bell ring again and I heard a whistle from another ship.

Q. Where was this whistle heard?

A. I heard it on the port side of the ship.

Q. Was there anyone with you at that time?

A. Yes; the second engineer was up at the same time. [63—21]

Q. What did you do when you heard this whistle?

A. I went over to the rail on the port side.

Q. Did you see anything when you went over there?

A. I looked in the direction where I heard the sound and shortly after I saw something looming up through the fog, which proved to be the outline of a ship, and then I run down into the engine-room at once. I saw there was danger.

Q. Did you see that this outline took form as a ship before you went down into the engine-room?

A. Yes, sir.

Q. Did you notice how the ship was coming?

A. I did not notice anything; it was just a matter of seconds.

(Deposition of Rambek Eggen.)

Q. When you got down into the engine-room how did you find your engines working?

A. At full speed astern.

Q. Who was in the engine-room at that time?

A. The third engineer.

Q. Anyone else? A. And an oiler.

Q. A Chinese oiler? A. A Chinese oiler.

Q. After you had reached the engine-room, what happened?

A. Shortly after that I felt a shock in the ship.

Q. On what side was it?

A. On the port side.

Q. What happened after the shock?

A. Shortly after then again I got an order through the speaking-tube to leave the engine-room and come up.

Q. Before you left the engine-room were your engines changed at all?

A. Yes, it was changed to stop.

Q. Who executed that order?

A. I executed it myself.

Q. When you went to the engine-room after seeing the contour of this ship did you go with anybody?

A. The second engineer, he ran down at the same time.

Q. What did you do, chief, when you came on deck again? [64—22]

A. We went to the boat; we saw she had a heavy list on her on the port side.

Q. What became of the "Selja"?

(Deposition of Rambek Eggen.)

A. She went down.

Q. Do you know what became of your engine-room log? A. It was lost.

Q. After you had reached land did you make out another log for November 22d? A. Yes, sir.

Q. What day did you make that out?

A. On the 23d.

Q. What is that paper I hand you?

A. That is the log I made out on the 23d.

Q. Is your signature on there? A. Yes.

Mr. DENMAN.—Q. The other signatures are the second engineer's and the third engineer's?

A. Yes, sir.

Mr. McCLANAHAN.—We offer this in evidence and ask that it be marked "Libelant's Exhibit 1."

(The papers marked "Libelant's Exhibit 1.")

Mr. DENMAN.—Q. Have you read the translation of the log made by the Norwegian Consul?

A. Yes.

Q. That is correct, is it? A. Into English?

Q. Yes. A. Yes.

Mr. McCLANAHAN.—Q. Chief, at the time you saw this vessel what was the condition of the weather? A. It was foggy.

Q. How far off do you think the outline was when you first saw it?

A. I could not say just the distance it was off.

Q. You did not notice that? A. No, sir.

Q. Did you lose anything, Chief, by the sinking of the "Selja"? A. I lost all my effects.

Q. Have you prepared a list of what you lost?

(Deposition of Rambek Eggen.)

A. Yes, sir.

Q. Can you refresh your memory from looking at the list and tell us what you lost?

A. Yes, sir. [65—23]

Q. Will you please do so?

Mr. DENMAN.—Let us look at that and possibly we can agree upon that.

Q. Chief, you made this out, did you not (pointing to the list). A. Yes, sir.

Q. This is a fair statement of these things, isn't it? A. Yes, sir.

Q. And it is a fair statement of the values?

A. Yes.

Q. You will give us your word of that, will you?

A. Yes, sir.

Mr. DENMAN.—That is all right; we will accept it.

Mr. McCLANAHAN.—Then it is admitted that the personal effects lost by the chief engineer of the "Selja" at the time of the loss were of the value of $458.25.

Mr. DENMAN.—Yes.

Mr. McCLANAHAN.—Q. What kind of a whistle has the "Selja"?

A. She has a splendid whistle, a good whistle.

Q. Do you know whether in this fog the "Selja's" whistle was being made use of before the collision?

A. Yes, it was blowing continually the whole afternoon.

Cross-examination.

Mr. DENMAN.—Q. Now, Chief, you say that in

(Deposition of Rambek Eggen.)

the morning the speed of the vessel was changed from time to time and her course, I imagine, was changed from time to time, as you were trying to discover where you were off the coast. That is a fact, is it not? A. Yes.

Q. How many times did you stop that morning?

A. On my watch?

Q. Yes.

A. We did not stop at all on my watch.

Q. Between 8 and 12 o'clock.

A. Between 8 and 12 o'clock there was no stop.

Q. Now between 12 and 1.

A. Between 12 and 1 there was no stop. [66—24]

Q. Were your engines going all the time between 12 and 1 o'clock? A. Yes, sir.

Q. How about between 1 and 2?

A. There was no stop.

Q. You say you went at slow speed during that time. How many revolutions was that?

A. At slow speed is about 20 revolutions.

Mr. McCLANAHAN.—I would like to correct counsel. I do not believe she was going at slow speed between 1 and 2.

Mr. DENMAN.—Well, I will lead him. At any rate we have got what slow speed means in turns of the engine.

Q. Now how long have you been with the "Selja"?

A. I have been a little more than three years.

Q. More than three years?

A. A little more than three years.

Q. How old is she?

(Deposition of Rambek Eggen.)

A. She is a little more than three years.

Q. You have been with her since the beginning then? A. Yes.

Q. You are familiar with the way she works and the various revolutions of her engines? A. Yes.

Q. You say that at 3:05 the slow bell was given?

A. Yes.

Q. And at 3:10 the engine had stopped?

A. Yes.

Q. How long would it take her to stop her speed going at the rate she was going at 3:10? About a minute, isn't it?

A. Oh, it would take perhaps two minutes.

Q. Not more than two minutes?

A. Do you mean to stop herself?

Q. Yes.

A. Oh, a minute to two or three minutes.

Q. About a minute, isn't it really, Chief?

A. No. Well, it would take her two minutes, I should think.

Q. About two minutes? A. Yes.

Q. That is at the outside?

A. Two or three minutes.

Q. Not more than three? A. No.

Q. You are sure of that? A. Yes. [67—25]

Q. More likely to be two than three, would it not?

A. Yes.

Q. Have you read the log of the captain here?

A. Yes.

Q. You see the statement that she was practically stopped at 3:10, do you not? A. At 3:10?

(Deposition of Rambek Eggen.)

Q. Yes, practically stopped.

A. Well, at 3:10 she was going slow; the engine was going slow at 3:10.

Q. But that is a fair statement, taking the period of time that she was very shortly after that?

A. Yes.

Q. Now your signal to go astern was given at 3:15, was it? A. Yes.

Q. And you know these figures 3:05, 3:10 and 3:15 are accurate figures? A. Yes.

Q. You stopped your engines, as I understand it, just as she struck?

A. No; a little while afterwards; perhaps a minute after.

Q. Perhaps a minute after? A. Yes.

Q. So then according to your log you were going astern for three minutes and two minutes of that was before? A. About three minutes.

Q. About three minutes?

A. Yes. It might have been 2½ or 3.

Q. So that you were going astern for two minutes before she struck and about a minute afterwards?

A. Yes, or about a minute and a half.

Q. What angle was the "Beaver" coming to your vessel when you first saw her?

A. I could not say exactly but I saw her just a little on the fore side of amidships.

Q. She was coming then at about right angles?

A. That is what I saw when she loomed up, she was a little ahead of amidships.

Q. And she was coming at about right angles,

(Deposition of Rambek Eggen.)

wasn't she, to your vessel?

A. Well, I could not say that; I did not take any [68—26] attention.

Q. She was coming head on for you? A. No.

Q. She was not coming head on? You were not approaching one another head to head? A. No.

Q. She was coming to your side? A. Yes.

Q. When you first saw her; that is true?

A. Yes.

Q. And pretty well around toward the side so that the angle was pretty nearly a right angle?

A. Yes, a little on the foreside, a little forward of amidships.

Q. How was the swell that day, southwesterly?

A. Well, the direction of the swell—I know we had the swell astern when we went in, something around the stern.

Q. Something around the stern? A. Yes.

Q. A little more on your starboard side, was it not, on your starboard quarter?

A. Yes, I should think it was about that.

Q. About three points, was it not?

A. I could not say what points.

Q. But it was practically over on the starboard quarter?

A. I know it was astern, and it was a little on the starboard.

Q. Now when your vessel stops her speed what effect does it have on her; does she slew?

A. When you stop her engine?

Q. Yes.

(Deposition of Rambek Eggen.)

A. Well, if she is deep in the water it will take no time before she is done, but if she is not, if she is light, and the engine has been working slow, it takes only a few minutes before she is done.

Q. I am talking about the slewing, the slewing from one side to another. For instance, you stop her speed. A. Yes.

Q. And she slows down to a stop?

A. Yes. [69—27]

Q. Now, does she proceed ahead on her course or does she veer from one side to another?

A. I am not able to speak of that.

Q. It depends upon the weather conditions, does it not?

A. Well, I am not familiar with that thing.

Mr. DENMAN.—That is all.

Mr. McCLANAHAN.—That is all.

[Deposition of Alfred Larsen, for Libelant.]

ALFRED LARSEN, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. What is your full name? A. Alfred Larsen.

Q. How old are you? A. 28.

Q. Where is your residence?

A. In Bergen, Norway.

Q. Are you a Norwegian by birth?

A. Yes, sir.

Q. What is your business? A. Second officer.

Q. Did you have anything to do with the "Selja"?

A. Yes. sir.

Q. What was your position on the vessel?

A. Second officer.

(Deposition of Alfred Larsen.)

Q. What papers do you hold?

A. Chief officer's papers.

Q. How long have you held those papers?

A. 6 years.

Q. They were issued by the Norwegian Government? A. Yes, sir.

Q. When was your watch on November 22d, 1910, on the "Selja"?

A. From 8 in the morning until noon.

Q. Who did you relieve? A. The chief officer.

Q. Who was on the bridge when you went there?

A. The chief officer and the captain.

Q. What was the course of the "Selja" at the time you went on the bridge? A. South 52 east, true.

Q. How were your engines working?

A. Half speed.

Q. Was there a change in the course of the "Selja" after you [70—28] went on the bridge?

A. Yes, sir.

Q. What time?

A. It was a few minutes after 8.

Q. What was the change?

A. It changed to west magnetic.

Q. Was there a change in the speed of your vessel after you went on the bridge?

A. Yes; at the same time we changed the speed of the ship to dead slow.

Q. How long did you keep this west course?

A. Till 9:30.

Q. What did you do then?

(Deposition of Alfred Larsen.)

A. We changed the course again to east by north, magnetic.

Q. Did you change your speed at that time?

A. No, sir.

Q. How long did you keep this east by north course? A. Till 11.

Q. Did you change then at 11? A. Yes, sir.

Q. What was the course then?

A. West, magnetic, again.

Q. Did you change your speed at that time?

A. No, sir.

Q. How long did you keep this west course?

A. Up to 12.

Q. Up to 12 o'clock; that was the end of your watch? A. Yes.

Q. Was there a change in the course before you left the bridge? A. No, sir.

Q. What was the speed up to 12 o'clock?

A. Dead slow.

Q. Dead slow? A. Yes, sir.

Q. Who relieved you on the bridge?

A. The third officer.

Q. During your watch what was the condition of the weather?

A. Dense fog, calm, and heavy westerly swell.

Q. What were you doing on the bridge during that period? A. I was working at the whistle.

Q. Blowing the whistle?

A. Blowing the whistle, yes.

Q. How often did you blow the whistle?

A. About every minute.

(Deposition of Alfred Larsen.)

Q. Had you heard during your watch any other signals from other vessels? A. No, sir.

Q. Where was the captain during your watch?

A. He was on the bridge. [71—29]

Q. Did you have a lookout?

A. Yes; on the forecastle-head, on the forecastle.

Q. Who was he? A. A Chinese sailor.

Q. Was he a good man? A. Yes, sir.

Q. What did you do after you left the bridge at 12 o'clock?

A. I went down and had my dinner, and then I had a rest.

Q. How long did you rest?

A. Till about a quarter to 3.

Q. What happened at a quarter of 3?

A. The chief officer called me out and told me to go aft to the sounding machine.

Q. Did you go to the sounding machine?

A. Yes, I went at once.

Q. Where is that sounding machine located on your ship? A. On the poop.

Q. What side?

A. Well, it is about amidships, a little on the starboard side; just a little on the starboard side.

Q. On the poop, a little on the starboard side?

A. Yes; it is about amidships.

Q. Did you take any soundings after you got to the machine?

A. Yes; I commenced a quarter to 3 to take soundings every five minutes.

Q. Who was there with you at the time?

(Deposition of Alfred Larsen.)

A. There was two sailors.

Q. What were they doing?

A. They were pulling in the lead.

Q. What depth of water did you find while you were sounding? A. Always 35.

Q. 35 what? A. Fathoms.

Q. How long did you continue to take soundings?

A. The last one I had was 3:10.

Q. Do you know what the course of the ship was at that time? A. No, sir.

Q. Do you know what the speed of the ship was at that time? A. No, I did not look. [72—30]

Q. What happened after 3:10?

A. I commenced to take another sounding with the lead, and then I saw a dark mass on the port side of the ship.

Q. What was that dark mass that you saw?

A. It was the steamer "Beaver."

Q. What did you do when you saw the "Beaver"?

A. I was watching her.

Q. How long did you watch her?

A. Only about two minutes.

Q. Did you watch her until she struck you?

A. Yes, sir.

Q. Do you know what speed she was going when she was being watched by you?

A. No, I could not tell what her speed was, but I saw she had a good speed on her.

Q. How could you see that?

A. On the water, on the bow.

Q. Do you know what speed your vessel was mak-

(Deposition of Alfred Larsen.)

ing either astern or ahead at that time?

A. No, I did not pay any attention to it.

Q. Do you know how her engines were working after you saw the "Beaver"? Which engines?

Q. The "Selja's" engines.

A. I did not pay any attention at all.

Q. Did you see the place where the "Beaver" struck the "Selja"? A. No, I could not see it.

Q. Had you heard any whistles?

A. Yes, I heard one about 3 o'clock.

Q. You heard a whistle about 3 o'clock?

A. Yes, sir.

Q. Was that whistle on your boat?

A. No. I heard it off on the port side.

Q. About how much on the port side?

A. Well, I don't know. I just heard it. I did not take the bearing of it. I just heard it was on the port bow.

Q. Did you hear it after you heard it the first time?

A. Yes, sir. [73—31]

Q. How long did you continue to hear it?

A. Well, I heard it from about 3 o'clock to the collision.

Q. Did you hear any whistles from your own steamer? A. Yes, sir.

Q. During that period? A. Yes, sir.

Q. What were they? A. I did not count them.

Q. What were the whistles, one, two or three or a dozen? A. I did not count them.

Q. You did not count them? A. No, sir.

Q. What was the condition of the fog at the time

(Deposition of Alfred Larsen.)

you saw the ship, the "Beaver," first?

A. Oh, it was a dense fog, the same conditions.

Q. After the "Beaver" struck you, what did you do? A. I was standing on the—

Q. I say, after the "Beaver" struck you, what did you do?

A. I was standing there on the poop and looking at her.

Q. After she struck you, did you still stand there?

A. Yes, sir.

Q. How long did you stand there?

A. A few minutes.

Q. Then what did you do? A. I left.

Q. What did you do, please?

A. I went to the starboard lifeboat.

Q. What did you do then?

A. I tried to get her off, but the ship had already listed so much we could not get the boat out; there was about 15 men working; we tried two or three times to get them out, but we saw there was no use, we couldn't get her off, and we had to leave her.

Q. Then what did you do?

A. Then I got to the other boat on the starboard side, the gig; that was half down, and I went down there.

Q. You got into the gig?

A. Yes, and that boat been smashed up. [74—32]

Q. Who was in the gig when you got in?

A. The captain was there.

Q. Anyone else?

A. Yes; there was 10 or 11 men down there.

(Deposition of Alfred Larsen.)

Q. After the gig was smashed, what did you do?

A. I came into the water.

Q. Then what did you do?

A. I was there in the water about five or six minutes, and then I got hold of the tackle and got up on the deck again, and then I went right over on the other side.

Q. On the port side?

A. Yes; I went off on the port side, and I got into one of the "Beaver's" boats and that took me off.

Q. Did you jump into the water? A. No.

Q. You got into the "Beaver's" boat from the ship's side? A. Yes, from the ship's side.

Q. What kind of a whistle has the "Selja"?

A. A strong and a good whistle.

Q. What became of your ship's log, Mr. Larsen? Do you understand the question? A. No.

Q. Where is the ship's log? A. Oh; it was lost.

Q. How was it lost?

A. It was lost in the collision.

Q. Where was it at the time of the collision?

A. Well, I guess the captain had it down in the boat and he lost it from the boat.

Q. In the boat that was smashed? A. Yes, sir.

Q. After you landed here at this port, did you make out another log for November 22nd?

A. Yes, sir.

Q. What is that (showing "Libelant's Exhibit 'A' for Identification" to the witness)?

A. That is the log.

Q. Is that your signature attached to that log?

(Deposition of Alfred Larsen.)

A. Yes; there is my signature (pointing).

Q. Do you knew the other men who signed that?

A. Yes, sir.

Q. You know Bjorn's signature? A. Yes.

Q. Is that your own signature (pointing).

A. Yes, sir. [75—33]

Q. Do you know Captain Lie's signature?

A. Yes, sir.

Q. And that is his signature, is it? A. Yes, sir.

Mr. McCLANAHAN.—We offer this in evidence and ask that it be marked Libelant's Exhibit 2.

(The paper is marked Libelant's Exhibit 2.)

Q. When was the log which has been marked Exhibit 2 made out?

A. On the 22d, in the afternoon, some time—the first day afterwards.

Q. What day was the collision? A. The 22d.

Q. And when did you make out the log?

A. The 23d.

Q. The day after the collision? A. Yes, sir.

Q. The day after the collision? A. Yes, sir.

Q. Did you lose anything in the collision?

A. I lost all I had.

Q. Have you made a list of what you lost?

A. Yes, sir.

Q. Have you put a value on what you lost?

A. Yes, sir.

Q. A value as of the time that you lost the goods—that is the value they were when they were lost?

A. Yes, sir.

Q. Let us see the list. A. Yes, sir.

(Deposition of Alfred Larsen.)

Mr. DENMAN.—I will cross-examine him as to some of these.

Mr. McCLANAHAN.—Very well.

Mr. DENMAN.—Q. These suits of clothes, were they new suits? A. Yes, sir.

Q. Where did you get them?

A. In Portland, Oregon.

Q. How long before?

A. About 3 months before.

Q. Had no chance to wear them in the interval?

A. No. I used one of them once.

Q. And they are practically new?

A. Yes, they are new.

Mr. DENMAN.—We will accept this statement; we are satisfied with this.

Mr. McCLANAHAN.—It is admitted that the value of the personal [76—34] effects lost by the witness at the time of the collision was $372.00. You may cross-examine.

Cross-examination.

Mr. DENMAN.—When was your last watch?

A. From 8 in the morning until 12 o'clock noon.

Q. From 8 until noon? A. Yes, sir.

Q. Heavy fog during all that time? A. Yes, sir.

Q. When did you begin to sound that day?

A. I commenced to sound at a quarter to 3.

Q. Now, were the soundings during all the time you were approaching land?

A. When I was on the bridge from 8 to 12 the captain was aft and the chief officer was aft also.

Q. How was the lead on your sounding apparatus,

(Deposition of Alfred Larsen.)

was it armored? A. No; it was Lord Calvin's.

Q. Where is that situated? A. On the poop.

Q. How far from the stern of the vessel?

A. Well, about 20 feet.

Q. As far as that? A. Yes, sir.

Q. Would that clear your— A. Yes.

Q. You say that this statement was made up. You signed this on the 23d, didn't you? A. Yes.

Q. When was it made up?

A. The same time; after we made it up we signed it.

Q. You read this over very carefully, didn't you? You read this over carefully before you signed it?

A. Yes, sir.

Q. Did you read the translation into English that was made of it by the consul? A. Yes, I saw it.

Q. Is that correct, that translation? A. Yes, sir.

Q. Now, you stated that at 3 o'clock you heard a deep steam whistle ahead and from then on heard it about every minute, and that you answered the same, and at 3:05 you ordered slow speed [77—35] and that you heard the whistle coming nearer, and at 3:10 you stopped the engine, being nearly at a standstill, and at 3:15 you saw the contour of the other vessel and then ordered ful' speed astern, and at the same time you gave three blasts of your whistle. That is correct, is it not?

Mr. McCLANAHAN.—I object to the question on the ground it is not properly stated; the witness has not stated anything of the kind.

Mr. DENMAN.—Just a minute. Let me cross-

(Deposition of Alfred Larsen.)

examine the witness.

Mr. McCLANAHAN.—You cannot do it unless you do it properly. The witness has made no such statement as you stated to him.

Mr. DENMAN.—Q. (Showing the witness Exhibit 2.) Read that in English. You see the portion I have marked there with a pencil and on the next page also; turn over to the next page also.

Mr. McCLANAHAN.—To save time, I will admit that is what the log says and that he signed the log.

Mr. DENMAN.—Q. You read this now, don't you—you can read it? A. Oh, yes.

Q. That is practically correct, isn't it; that is correct, that is true? A. Yes, that is true.

Mr. McCLANAHAN.—Let it appear that the witness is being shown the log that is introduced in evidence.

Mr. DENMAN.—Q. Well, you know that is a fact, don't you? A. Yes, that is a fact.

Q. Those statements there are correct? A. Yes.

Q. Now, you say it was heavy fog during all of the time of your watch. Tell me what speed you went at beginning with the beginning of your watch and to the end.

A. When I came up at 8 o'clock, we had half speed on, and a few minutes after 8 we changed our course and then we changed the speed to dead slow.

Q. And then again what?

A. And then that speed we kept up the [78—36] whole watch.

Q. For the whole watch? A. Yes, sir.

(Deposition of Alfred Larsen.)

Q. That was from 8 o'clock until 12?

A. Yes, sir.

Q. Now, between 12 and 1, what speed did you go at?

A. I was not on the bridge; I was down.

Q. The same foggy conditions, were there not?

A. Yes, sir.

Q. Heavy fog continued right along until the collision, did it not? A. Yes, sir.

Q. Before that log was prepared you all got together and talked the thing over, did you not?

A. Yes, sir.

Q. And you were all together when the log was prepared, were you not? A. Yes, sir.

Q. And all understood what was going in it at that time? A. Yes, sir.

Q. And that includes the master of the vessel—Captain Lie was there, was he not? A. Yes, sir.

Q. And Mr. Halvorsen? A. Yes, sir.

Q. And the third officer? A. Yes, sir.

Q. How much water was she drawing?

Mr. McCLANAHAN.—I object to the question on the ground it is indefinite.

Mr. DENMAN.—Q. How much water was your vessel drawing at the time of the collision?

Mr. McCLANAHAN.—I still object to it on the ground it is indefinite.

Mr. DENMAN.—Q. Answer the question. How many feet forward?

A. I guess she was drawing about 17 feet.

Q. Forward or aft? A. Aft.

(Deposition of Alfred Larsen.)

Q. How much forward?

A. Well, I could not say exactly.

Q. She was quite light forward, was she not?

A. It might be a foot or something less. I don't know anything about that. [79—37]

Q. What does she draw when she is fully laden?

A. What?

Q. What will she draw when she is fully laden; what will she draw when she has got a full cargo—23 feet? A. 23 feet 6.

Q. 23–6? A. Yes.

Q. Then she was quite light at this time, was she not? A. Yes.

Q. Very light, wasn't she?

A. She was a little more than half loaded.

Q. How much was her propeller under water? I mean how many feet would that be? You are the second officer of the vessel. About how much?

A. Well, it would be underneath the water.

Q. A little bit—not very much?

A. She would be underneath the water.

Q. But not much under? She would be pretty near the top at 17 feet draught?

A. Yes, about that.

Q. She would be pretty near the top, the surface of the water, at that draught? A. Yes.

Mr. DENMAN.—That is all.

Mr. McCLANAHAN.—That is all.

[Deposition of Axel Andersen, for Libelant.]

AXEL ANDERSEN, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. What is your full name? A. Axel Andersen.

Q. What is your age, Mr. Andersen? A. 29½.

Q. What is your residence?

A. In Bergen, Norway.

Q. Are you a Norwegian by birth? A. Yes, sir.

Q. What is your business? A. Engineer.

Q. What papers do you hold?

A. I hold chief engineer's tickets; I held that for two years, and second engineer's tickets for four years. [80—38]

Q. By what government were these tickets issued?

A. Norway.

Q. Do you know the steamship "Selja"?

A. Yes, sir.

Q. What was your position on the "Selja"?

A. Second engineer.

Q. Were you on the "Selja" on the 22d of November, 1910, when she had a collision with the "Beaver"? A. Yes, sir.

Q. What was your first watch on that day?

A. From 8 in the morning until 12 o'clock noon.

Q. When you went in the engine-room, who was in the engine-room? A. The chief engineer.

Q. You relieved him, did you?

A. I relieved the chief engineer.

Q. Who relieved you?

(Deposition of Axel Andersen.)

A. The third engineer.

Q. How were the engines going when you went into the engine-room at 4 o'clock?

A. The engine was going slow speed.

Q. When was the first change after you went into the engine-room? A. Pretty soon afterwards.

Q. What was that change?

A. A change to dead slow.

Q. How long did the engines work dead slow after you went into the engine-room?

A. They worked dead slow during the whole of my watch.

Q. What was your steam pressure at that time?

A. It was kept between 160 and 170 pounds.

Q. What was your full steam? A. 180 pounds.

Q. Why were you keeping your pressure between 160 and 170? A. To prevent the steam blowing off.

Q. Why did you want to prevent the steam blowing off?

A. Not to obstruct the signals or whistles we might hear.

Q. Not to obstruct the signals or whistles you might hear on the bridge?

A. From other steamers that might be around us.

Q. Explain how this exhaust would obstruct the whistles of other steamers.

A. When the steam blows off it is a very sharp sound, [81—39] a hissing, and you can't hear anything but that sound when that steam blows off.

Q. When would that steam blow off, under what conditions?

(Deposition of Axel Andersen.)

A. If we go full speed and the engine is slowed down to half speed it will blow off if there is 180 pounds.

Q. That is if you are going full speed with full pressure and you should slow down then the steam blows off? A. Yes, sir.

Q. Do you always when you are navigating in a fog keep your pressure below full pressure?

A. Yes, below.

Q. After your watch had ended, what did you do?

A. I brought the slate to the chief engineer.

Q. What time was that?

A. 12 o'clock, a little after 12.

Q. Was that a part of your duty?

A. Yes, that is a part of my duty.

Q. Where was the chief engineer?

A. He was in his room then.

Q. Where did you go after you took the slate to the chief engineer? A. I went to the messroom.

Q. What time was that?

A. Ten minutes past 12 or so, around about that time.

Q. What did you do there? A. I had my dinner.

Q. And then what did you do?

A. I went to my room.

Q. How long did you remain in your room?

A. Till about 3 o'clock.

Q. After you had been relieved did you hear any engine-room bells from that time up to 3 o'clock?

A. Not that I remember.

Q. After 3 o'clock did you hear any engine-room

(Deposition of Axel Andersen.)

bells? A. Yes, sir.

Q. Do you know what change was made in your engines after hearing the first bell?

A. The engine was slowed down.

Q. Where were you when you heard that first bell?

A. I was sitting in the messroom having my coffee.

Q. After hearing the first bell in the engine-room did you hear [82—40] any other?

A. Yes, some time afterwards.

Q. Where were you when you heard this second engine-room bell? A. I was on deck.

Q. You were on deck then? A. Yes, sir.

Q. Whereabouts on deck?

A. About the corner of the deckhouse.

Q. Were you with anyone or alone?

A. Then I was alone.

Q. Do you know what the order was that you heard at that time?

A. Yes; I could see the engine was stopped. You could hear that too and feel it.

Q. Had you heard any whistles up to that time off your ship? A. Not except our own whistle.

Q. How often had you heard your own whistle?

A. Since I came out of my room I heard it incessantly, but I did not take the time; I did not time it.

Q. After hearing the engines of your steamer stop, did you hear any whistles off your own ship?

A. Yes; a little while after that I heard one whistle.

Q. Do you know where that whistle was?

A. On the port bow it was.

Q. How long after you knew that your engines

(Deposition of Axel Andersen.)

were stopped was it that you heard this whistle on the port bow? A. That is, how long it was after?

Q. How long after your own engines were stopped was it that you heard this whistle on the port bow?

A. Some minutes; four minutes; I did not take exactly the time; a little after that.

Q. When you heard this whistle on the port bow what did you do?

A. I went to the rail, to the port side, and looked in the direction where the sound came from.

Q. Was any one with you at that time?

A. At that time the chief engineer was beside me.

Q. Did you both go to the rail together?

A. We both went.

Q. What did you do when you went there?

A. I saw part of a ship [83—41] then.

Q. How long did you stay there?

A. Just a moment.

Q. Did you hear any bells in the engine-room at or about that time on your own ship?

A. After that time?

Q. At or about that time?

A. Yes, about that time.

Q. What were the bells? A. Full speed astern.

Q. Was that full speed astern order heard by you before or after you had seen the ship on the port side?

A. Well, this was almost so one thing upon another.

Q. All one thing upon another?

A. I should think it was about the same time. I

(Deposition of Axel Andersen.)

cannot now say whether it was a little before or a little after.

Q. What did you do when you saw this ship ahead?

A. I run down in the engine-room, but before I went down there I looked over the side into the water.

Q. Over the side of your own ship?

A. Of my own ship.

Q. What did you look over there for?

A. Because it is the habit of me to do it, that when the bell rings in the engine-room, to see what speed the engine is working; you can see whether she is working forward or astern by looking over the side.

Q. How can you see that?

A. Because if the water comes from the propeller along the ship forward that proves that the engine is working astern; if not, the engine is working ahead.

Q. What did you see when you looked over?

A. I saw the back water from the propeller coming alongside, forward alongside the ship.

Q. How far forward had it reached when you saw it?

A. I should say something around the aft part of 3 hold. I did not measure it; I was just a moment and I run down.

Q. When you reached the engine-room how did you find the engines [84—42] working?

A. I found the engines working full speed astern.

Q. What happened after you reached the engine-room? A. I felt a shock on the port side.

Q. Were the engines changed, or did you receive any order from the bridge after that?

(Deposition of Axel Andersen.)

A. We got one order after that.

Q. What was it? A. To stop the engine.

Q. Who was on watch at that time?

A. The third engineer and one oiler.

Q. After you received this stop order from the bridge did you receive any order from the bridge?

A. Yes; the chief engineer, he got the order to leave the engine-room and all of us to come on deck.

Q. How did he get that order?

A. Through the speaking tube.

Q. And in response to the order I suppose you all came on deck? A. We all did.

Q. What did you do when you came on deck?

A. We ran to the deck and we took our places at the boats, certain places at the boats.

Q. What was your place?

A. At the starboard lifeboat.

Q. What did you do when you got there?

A. I did my duty, tried to get that boat off the side.

Q. Did you get it off?

A. No, we could not because she had a heavy list at that time.

Q. After you could not get the boat out from the starboard side what did you do then?

A. I ran to the starboard gig.

Q. Were you in the starboard gig? A. Yes.

Q. What happened to the starboard gig?

A. She got smashed on the side.

Q. What became of you?

A. I went into the water.

(Deposition of Axel Andersen.)

Q. Then what did you do?

A. I swam out a little, and swam clear [85—43] of the ship, cleared the ship and swam out on the sea, got clear of the boat when she sank.

Q. Were you in the water when she sank?

A. I was quite a while in the water.

Q. I asked you if you were in the water when the "Selja" sank?

A. Yes, I was in the water when she sank.

Q. In the water?

A. Yes, in the water when she sank.

Q. You were picked up by one of the boats, were you?

A. One of the "Beaver's" boats.

Q. What kind of a whistle has the "Selja," Mr. Andersen?

A. I will say that the "Selja" has the best whistle of the steamers I have been in.

Q. Have you been in other tramp steamers?

A. I have been in seven others.

Q. Did you lose any thing by the collision?

A. I lost everything I had.

Q. Have you made out a list of what you lost?

A. Yes, sir.

Q. With the value of what you lost?

A. Yes, on everything.

Q. Was this the value of the things at the time of the collision?

A. Yes, the value, it was worth at that time; the value it was worth at the time.

Q. At the time of the collision?

(Deposition of Axel Andersen.)

A. At the time of the collision.

Q. That is the list, is it?

A. That is the list (handing).

Q. Mr. Andersen, your watch was from 8 to 12?

A. Yes, sir.

Q. What was your speed when you went in there at 8 o'clock? A. Slow speed.

Q. And after that, a few minutes, it was changed to dead slow?

A. Pretty soon afterwards it was changed to dead slow.

Mr. DENMAN.—Q. When did you buy that overcoat? A. In Portland, Oregon. [86—44]

Q. How about the waterproof? A. In Norway.

Q. How long had you had the waterproof?

A. I had it since I was in Norway.

Q. How long ago was that?

A. Well, that is 2½ years, but we do not wear the clothes very much aboard in the ship; we very seldom put it on; that is another thing that when ashore they use it every day; we may use it two times a year, all the time we work.

Q. Then this waterproof coat was 2 years old and you paid $16 for it in Norway, did you?

A. I beg your pardon.

Q. You paid $16 for it in Norway.

A. Yes, in Norway.

Q. It was two years old then.

A. Well, it was two years old but it was just as good as new.

Q. And the black suit, how old was that?

(Deposition of Axel Andersen.)

A. That was bought at the same time, but that was a very dear suit.

Q. It cost $30. A. $30.

Q. And what is this item, 2 colored suits?

A. It is colored suits.

Q. Those were bought in Norway also?

A. One was right new; one was good.

Q. One was new and the other was old?

A. Yes, one new and the other was old.

Q. And the original cost price was $25 and $12; is that right? A. Yes, sir.

Q. Which was the old one, the $25 one?

A. No, the other one.

Q. Now, the five blue serge suits for engine use; those cost you $24 new, did they? A. Not new.

Q. What did they cost?

A. They cost more; they cost $6 each new, when they are new.

Q. How old were they?

A. Some were practically new and some [87—45] were half a year old or a year; they were worth more than $30 new altogether.

Q. Then you have made allowance all through this for age, have you, in your prices? A. What?

Q. You have made allowance for the age of these various articles in fixing your value here, have, you? A. Yes, sir.

Q. You made deductions?

A. Yes. I thought the things over, how long I have had them, but there are things I have forgotten to put down.

(Deposition of Axel Andersen.)

Mr. McCLANAHAN.—The same stipulation?

Mr. DENMAN.—Yes.

Mr. McCLANAHAN.—It is stipulated that the value of the personal effects belonging to the witness lost in the collision was $349.30.

Q. Mr. Andersen, you have been on the ship since she was launched?

A. No, sir. I came on six or seven months afterwards.

Q. Been ever since? A. Ever since.

Cross-examination.

Mr. DENMAN.—Q. You did not stay very long by the ship's side before you went down below, did you? You were just there for half a second, were you not? A. Just a moment.

Q. Just a moment.

A. Just to look over and look into the water and at the same time run down.

Q. You saw the other vessel and you heard your full speed astern signal given, didn't you, at about the same time?

A. Almost at the same time.

Q. The other vessel was coming on you at about right angles, was she not? A. It appeared to me.

Q. At just about right angles?

A. Yes, sir.

Q. Then you immediately went below?

A. Yes, immediately. [86—46]

Q. And was she going full speed astern?

A. She was working full speed astern when I came down.

(Deposition of Axel Andersen.)

Q. And in that moment's glimpse you had time to see that the water from the propeller had come forward quite a distance on the side?

A. What is that?

Q. In that moment you saw that the water from the propeller had come quite a distance up the side of your vessel? That is correct, is it?

A. Yes, that is correct.

Q. Did you sign the log of the ship, the captain's log? A. I signed it; I signed one.

Q. You signed one but you saw the captain's log too, didn't you, at the same time? The two logs were prepared at the same time, weren't they?

A. Yes, they were.

Q. You were all together when that was done?

A. We were all together.

Q. You read over the captain's log?

A. Yes, sir.

Q. That is correct, isn't it? A. Yes, sir.

Q. You read that carefully, didn't you?

A. Yes, sir.

Q. And you all talked that over together?

A. Yes, and he read it over too.

Q. He read it over?

A. Yes, sir. The captain read it over.

Q. And you all agreed it was correct?

A. Yes, we did.

Q. And the same is true of the engineer's log, isn't it, also.? A. Yes, sir.

Q. About how many revolutions were you going when you were going dead slow—about 20?

(Deposition of Axel Andersen.)

A. About 20.

Q. And you had been going about 5 minutes under dead slow speed, had you, before the stop signal came? A. What time do you mean?

Q. Between 3:05 and 3:10?

A. About 5 minutes.

Q. Now did you go astern at all or were your engines going astern [89—47] reversing, after she struck? A. Yes, a little while afterwards.

Q. About half a minute?

A. I should say a minute.

Q. About a minute? A. About a minute.

Q. And altogether you were going astern about three minutes according to your log?

A. Something between two and three minutes it appeared to me.

Q. Well, it is about 3 minutes you have in your log; that is about correct, isn't it? A. Yes, sir.

Q. So that you were going about two minutes astern before she struck and about a minute afterwards; that is about correct, isn't it?

A. Two minutes before she struck?

Q. You say she went astern about a minute after she struck, a little less than a minute, and about two minutes before?

A. Well, the engine worked altogether about three minutes astern.

Q. About three minutes astern? A. Yes, sir.

Q. That would make it about two minutes before?

A. But I could not say exactly.

Q. Well, just about, that proportion?

(Deposition of Axel Andersen.)

A. About that, yes, sir.

Redirect Examination.

Mr. CLANAHAN.—I want to ask one question I omitted to ask.

Q. How did your vessel swing, if you know, on a full speed astern movement?

A. I cannot say because I have no experience; it is not in my line to know that.

Mr. McCLANAHAN.—That is all. [90—48]

[Deposition of Arvid Bjorn, for Libelant.]

ARVID BJORN, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. What is your full name? A. Arvid Bjorn.

Q. How old are you, Mr. Bjorn? A. 26 years.

Q. Where is your residence?

A. It is Christiansund.

Q. Norway? A. Yes, sir.

Q. You are a Norwegian by birth?

A. Yes, sir.

Q. What is your business? A. I am a seaman.

Q. Were you an officer on the steamship "Selja" at the time of the collision with the "Beaver"?

A. Yes, sir.

Q. What position did you hold?

A. Third officer.

Q. What papers do you hold?

A. I have got chief officer's papers.

Q. How long have you had chief officer's papers?

A. Since 1904.

Q. Issued by what government?

(Deposition of Arvid Bjorn.)

A. The Norwegian government.

Q. What was your first watch on November 22d, 1910?

A. From 12 midnight until 4 o'clock in the morning.

Q. Who did you relieve?

A. The second officer, Mr. Larsen.

Q. When you went on the bridge at midnight, November 22d, who was there?

A. The second officer.

Q. Anyone else? A. He was the only officer.

Q. Who was at the wheel?

A. One of the Chinese quartermasters.

Q. Do you know anything about his competency?

A. He was a good man.

Q. What was the course of the "Selja" at the time you went on the bridge at midnight?

A. South 52 east, true.

Q. What was the speed of her engines?

A. Full speed.

Q. Was there a change made in that course after midnight? A. No, sir.

Q. Did your engines remain full speed during your whole watch? [91—49] A. No, sir.

Q. When was the first change in the engines?

A. About 2 o'clock.

Q. What was the weather when you first went on your watch? A. Kind of hazy.

Q. Did it remain hazy all during your watch?

A. It became thicker fog.

Q. What time? A. About 1 o'clock.

(Deposition of Arvid Bjorn.)

Q. Were you on the bridge alone during your whole watch? A. No, sir.

Q. Who else was there?

A. The captain came on the bridge at 1 o'clock.

Q. One o'clock A. M.? A. Yes, sir.

Q. Why did he come on the bridge?

A. I asked the captain through the speaking-tube from the bridge.

Q. What did you want with the captain?

A. I asked him to come up.

Q. Why? A. Because it was foggy.

Q. Had you been blowing your whistle before 1 o'clock? A. Not before, no.

Q. Not before? A. No.

Q. What about after 1, did you blow your whistle?

A. At 1 o'clock I blowed the whistle.

Q. At 1 o'clock you blowed your whistle?

A. Yes, sir.

Q. How often was your whistle blown after 1 o'clock? A. Every minute since.

Q. Did the fog continue after 1 o'clock until the end of your watch? A. Yes, sir.

Q. You say there was a change in your engines at about 2 o'clock? A. Yes, sir.

Q. Why was that change made?

A. Why it was changed?

Q. Yes.

A. We heard three blasts, signals, from a sailing [92—50] vessel.

Q. Where did you hear the three blasts from the sailing vessel?

(Deposition of Arvid Bjorn.)

A. I heard it on the starboard side,—the starboard bow.

Q. Was that the reason for changing your engines? A. Yes, sir.

Q. What was the change? A. Slow.

Q. How long did you hear the three blasts from the sailing vessel's horn? A. Several times.

Q. Several times? A. Yes, sir.

Q. Did the bearing change? A. Yes, sir.

Q. Where was the sailing vessel at the time you heard her last blast? A. She was far astern.

Q. What did the three blasts from the sailing vessel's horn mean to you?

A. It meant that the vessel was sailing the same way as we did.

Q. What direction was the wind at that time?

A. It was westerly.

Q. The wind then would be a little abaft of her beam? A. Yes, abaft of the beam.

Q. After the sailing vessel had passed was there a change made in your engines? A. Yes, sir.

Q. What was that change? A. It was about—

Q. What was the change, not the time.

A. Stop.

Q. You were going slow and then stopped?

A. No, sir. It was full speed afterwards, after the sailing vessel.

Q. After the sailing vessel had passed you put your engines full speed ahead? A. Yes, sir.

Q. Was there a change made in your engines after that? A. After we had gone full speed ahead?

(Deposition of Arvid Bjorn.)

Q. Yes. A. Yes, sir.

Q. What was that change? A. Stop.

Q. What time was that?

A. About three-quarters of an hour afterwards. [93—51]

Q. About three-quarters of an hour after the sailing vessel had passed you? A. Yes, sir.

Q. Why did you stop your engines at that time?

A. We heard a single whistle from a steamboat.

Q. Where was that? A. Ahead.

Q. On what side?

A. That would be on the—it was pretty near dead ahead.

Q. How often after hearing the first whistle from the steamer did you hear the whistle?

A. I heard it several times.

Q. What was the bearing of the steamer?

A. She passed us astern; she was going about northerly.

Q. She was going northerly? A. Yes, sir.

Q. How long did she take to pass you?

A. A few minutes.

Q. After she passed you was there a change then made in your engines? A. Full speed ahead.

Q. And was there a change made after the full speed ahead order? A. No, sir.

Q. That is at the end of your watch, at 4 o'clock, they were still going full speed? A. Yes, sir.

Q. What was the course at that time?

A. The same course.

Q. From the time the fog shut down on you what

(Deposition of Arvid Bjorn.)

was the condition of the weather after or until the end of your watch? A. It remained very foggy.

Q. When you were relieved who were you relieved by? A. The chief officer, Mr. Halvorsen.

Q. And the course then was what?

A. South 52 east, true.

Q. What did you do after you left the bridge?

A. At 4 o'clock?

Q. Yes. A. I went to bed.

Q. When did you get up?

A. About 8 o'clock in the morning. [94—52]

Q. Do you know what the course of the steamer was at that time? A. No, sir.

Q. Do you know what her speed was?

A. I don't know anything about that.

Q. Do you know of any change in the course of the ship after 8 o'clock? Wait a minute, I withdraw that question. When was your next watch?

A. On deck?

Q. Yes.

A. From 12 noon until the time the collision occurred.

Q. Between the time of your coming from your rest in your room did you notice any change in the vessel's course up to noon? A. Yes, sir.

Q. What was the first change that you noticed?

A. I don't know the course.

Q. I am not asking you for it; was there a change?

A. Yes, sir.

Q. You don't know the course? A. No, sir.

Q. Do you know how often the course was

(Deposition of Arvid Bjorn.)

changed? A. No, sir.

Q. Had you heard any whistles up to 12 o'clock noon? A. No, sir.

Q. When you went on the bridge at 12 o'clock noon, who was there? A. The second officer.

Q. Anyone else? A. No, sir.

Q. Where was the captain, do you know?

A. He was on the lower bridge.

Q. You were referring to the upper bridge?

A. Yes.

Q. Did the captain come onto the upper bridge during your second watch? A. Yes, sir.

Q. When did he come up there?

A. About soon after I came myself.

Q. And that would be soon after 12 o'clock?

A. Soon after 12 o'clock, yes.

Q. When you went on the bridge at 12 o'clock, who was at the [95—53] wheel?

A. A quartermaster.

Q. Do you know anything about his competency?

A. He was a good man.

Q. Did you have a man at the lookout?

A. Yes, sir.

Q. Who was he?

A. He was a sailor; one of the sailors.

Q. A Chinaman? A. A Chinaman.

Q. Do you know anything about his competency?

A. Yes, he was a good man, too.

Q. What was the weather when you went on the bridge at 12 o'clock? A. Foggy.

Q. What kind of a fog?

(Deposition of Arvid Bjorn.)

A. Heavy fog; dense.

Q. What was the course of the steamer at that time? A. At 12 o'clock?

Q. Yes. A. It was due west.

Q. What were your engines going at that time?

A. Dead slow.

Q. Was there a change in the engines after 12 o'clock? A. Yes, sir.

Q. What was the change? A. Half speed.

Q. When was that change made?

A. At 1 o'clock P. M.

Q. Was there a change in your course after 12 o'clock? A. Yes, sir.

Q. What was that first change?

A. It was from west to south 60 east.

Q. South 60 east; magnetic or true?

A. Magnetic.

Q. Do you know why that course was changed from due west to south 60 degrees east, magnetic?

A. Yes, I know.

Q. Why was it?

A. We were trying to get up on the land.

Q. Trying to get up on the land? A. Yes, sir.

Q. Did you want to go up on the land with your ship? A. No, it was not my intention.

Q. What was your intention?

A. We was going to get Point [96—54] Reyes, make Point Reyes.

Q. What was the speed of the ship when you took this course south 60 degrees east, magnetic?

A. Half speed.

(Deposition of Arvid Bjorn.)

Q. How long did you keep that course?

A. Past Point Reyes.

Q. What time was that, about?

A. About 2:50.

Q. About 2:50? A. Yes.

Q. What did you do then with your course?

A. We changed.

Q. What was the change to?

A. South 65 east.

Q. Magnetic? A. Yes, sir.

Q. Where would that head you for?

A. For the lightship.

Q. After your change of course at 1 o'clock did you hear any whistles off your ship?

A. Yes, sir.

Q. What was the first whistle you heard; what was it? After 1 o'clock what was the first whistle you heard?

A. There was the fog horn from Point Reyes.

Q. When did you hear that first?

A. About 2:30.

Q. 2:30. Where was the bearing?

A. It was on the port bow.

Q. Did that bearing subsequently change?

A. Yes, sir.

Q. Where was the fog horn on Point Reyes blowing when it was abeam of your ship—what time was that? A. About 2:50.

Q. How often did this fog horn blow?

A. The Point Reyes fog horn?

Q. Yes. A. Every 35 seconds.

(Deposition of Arvid Bjorn.)

Q. How do you know that? A. I timed it.

Q. How did you time it? A. With my watch.

Q. Up to that time had you heard any other fog signals? A. No, sir.

Q. What about your own whistle, was that being blown? A. Yes, sir.

Q. How often? A. Every minute.

Q. Who blew it? A. I did.

Q. When prior to this watch had you taken an observation? Do you [97—55] understand that question?

A. I had not taken any observation at all.

Q. When was the last observation on the "Selja" taken? A. It was taken in the forenoon.

Q. Where?

A. By the second officer and the captain.

Q. I say where? Where were you?

A. I am not quite sure I understand that.

Q. Did you take any observation on the "Selja" at all?

Mr. DENMAN.—The question is pretty general.

Mr. McCLANAHAN.—Q. Mr. Bjorn, do you know when you took your last observation?

A. When I took my last observation?

Q. Yes. A. That was the day before.

Q. What time was that?

A. That was at noon.

Q. At noon the day before? A. Yes, sir.

Q. Do you know whether that was the last observation that was taken on the ship? A. No, sir.

Q. You don't know? A. I know it was not.

(Deposition of Arvid Bjorn.)

Q. When was the last observation taken on the ship?

A. In the forenoon of the 22d, in the morning of the 22d of November.

Q. What time? A. I could not say.

Q. Who took that observation?

A. I heard that was the second officer and the captain.

Q. How was the observation taken?

A. I could not say.

Q. Was it foggy all that morning?

A. I could not say anything about this; I was not on deck at all at that time.

Q. Was this the 22d or the 21st you are speaking of?

A. I am speaking of the 22d, but I could not tell for sure.

Q. You cannot tell for sure what?

A. The observation, because I was not out on deck. [98—56]

Q. You just heard there was an observation?

A. Yes, sir.

Q. Do you know when you heard the fog horn off Point Reyes, when it was off your beam at about 2:50, how far you were from the fog horn?

A. About two miles I should think.

Q. About two miles. When you heard it first at 2:30 how far were you from the fog horn?

A. Well, I should judge about a mile and a half.

Q. After this fog horn was heard off your beam did you hear any other fog signals before the colli-

(Deposition of Arvid Bjorn.)

sion? A. Yes, sir.

Q. What time was that? A. A little after 3.

Q. What was it you heard?

A. I heard a single whistle.

Q. Where was it? A. Ahead.

Q. On what bow? A. Port.

Q. Did you know what it was at the time you heard it? A. No, sir.

Q. What did it sound like? How did it sound?

A. It sounded deep, very deep whistle.

Q. Near or far? A. Far off.

Q. Did you hear that whistle any more after you heard it the first time? A. Yes, sir.

Q. How often? A. Several times.

Q. With reference to the time of the collision how often did you hear it?

A. With reference to the collision?

Q. How far did you hear it after you first heard it? Did you hear it up to the time of the collision?

A. Yes, sir.

Q. How often was it blowing?

A. I got it about 57 or 58 seconds between.

Q. Between the whistles?

A. Between the whistles.

Q. When did you time this whistle ahead?

A. I timed it right after the captain had slowed down our engine. [98—57]

Q. When did your captain slow down the engine?

A. That was 5 minutes past 3.

Q. It was after that that you timed it?

A. Yes, sir.

(Deposition of Arvid Bjorn.)

Q. At the time the captain slowed down the engines did you know it was a steamer?

A. I was not sure.

Q. When did you become sure that it was a steamer?

A. I was sure it was a steamer at the time the captain stopped the engine.

Q. What made you sure of the whistle being the whistle of a steamer?

A. She was coming—the sound was—nearer and nearer.

Q. Did your timing of the whistle have anything to do with the conclusion that you came to that it was a steamer's whistle? A. Yes, sir.

Q. Why did that have anything to do with it?

A. Because the intervals between each whistle was not regular.

Q. That led you to believe it was a steamer?

A. Yes, sir.

Q. Had the whistle, the sound of the whistle, changed its bearing from the first time you heard it?

A. It was still on the port bow.

Q. Had it changed in its bearing?

A. It was coming nearer.

Q. It changed in its bearing?

A. It was coming nearer.

Q. It came nearer? A. Yes, sir.

Q. What time did your engines stop, the "Selja's" engines? A. At 10 minutes past 3.

Q. How do you know that was the time?

A. I looked at the clock.

(Deposition of Arvid Bjorn.)

Q. How do you know he stopped them?

A. How I know they stopped the engine?

Q. Yes. A. The telegraph.

Q. You saw him do that? A. Yes, sir.

Q. What were you doing at that time?

A. I was standing blowing the whistle. [100—58]

Q. How long after you stopped your engines was it before you saw the "Beaver"?

A. When I stopped the engines, when I saw the "Beaver"?

Q. You say you stopped the engines at 3:10; how long after that was it that you saw the "Beaver"?

A. I did not look at the clock so I couldn't say for sure.

Q. Was it some minutes? A. A few minutes.

Q. A few minutes afterwards? A. Yes, sir.

Q. Where did you first see the "Beaver"?

A. When I first see her.

Q. Where did you first see her?

A. About three points on my port bow.

Q. Did you hear any whistles at that time?

A. When I saw her, yes.

Q. What were the whistles you heard at that time?

A. Three whistles.

Q. From the "Beaver"? A. Yes, sir.

Q. What did you do when you heard the three whistles?

A. I blowed three whistles immediately after her.

Q. Anything done with your engines at that time?

A. The captain ordered full speed astern.

Q. How soon after you blew the three whistles did

(Deposition of Arvid Bjorn.)

the captain order full speed astern?

A. Immediately.

Q. After you had blown the three whistles what did you do?

A. After I blowed the three whistles?

Q. Yes.

A. I went over to the rail on the port side, on the bridge.

Q. What did you do there?

A. I was standing watching the "Beaver."

Q. How was she coming?

A. How was she coming?

Q. Yes.

A. She was coming at good speed. [101—59]

Q. How do you know that?

A. I saw the way she was cutting the water, the foam on her bow.

Q. Did you watch her until she struck you?

A. Yes, sir.

Q. Did you see her strike you? A. Yes, sir.

Q. What did she do after she struck you?

A. What is that?

Q. What did the "Beaver" do after she struck the "Selja"? A. She rebounded.

Q. What kind of a hole did she make in the "Selja"? A. What kind or how much?

Q. Yes, how much of a hole; what kind of a hole was it?

A. I could not say for sure, but about 10 feet.

Q. What was the angle at which she struck?

A. It would be about a right angle.

(Deposition of Arvid Bjorn.)

Q. About a right angle? A. Yes, sir.

Q. When your engines are put full speed astern will your vessel slew any; will she swing any?

A. Will she swing any?

Q. Yes. A. She will swing.

Q. Which direction will she swing?

A. She will swing over to starboard.

Q. Her bow will swing to starboard?

A. Her bow, yes.

Q. And her stern to port? A. Yes, sir.

Q. Had your vessel swung any at the time you blew the three whistles? A. I don't know.

Q. Did she swing any after that?

A. She must have.

Q. Do you know what direction your vessel was going at the time of the impact? Was she going ahead or going astern? A. She was going astern.

Q. What makes you think that?

A. As I said, she was, the vessel, my vessel was stopped; had been stopped about five minutes I should say. [102—60]

Q. Your vessel had been stopped or the engines had been stopped?

A. I mean the engines had been stopped about five minutes, and before that we had been going slow; then she got full speed astern and she must have been going astern.

Q. At the time of the collision? A. Yes, sir.

Q. What did you do after the collision?

A. I went right away, immediately after I went down in the lower bridge.

(Deposition of Arvid Bjorn.)

Q. From the port side? A. From the port side.

Q. Could you see the "Beaver" at that time?

A. Yes, sir.

Q. At that time the "Beaver" was clear of the "Selja," was she? A. Yes, sir.

Q. Do you know how your ship was going at that time? A. She was going astern.

Q. How do you know?

A. I saw the back water of her propeller.

Q. Which way was it running?

A. It was going forward to the bow.

Q. Before leaving the bridge do you know whether your engines were changed? A. Yes, sir.

Q. Who gave the order? A. Captain Lie.

Q. What was the order? A. Stop.

Q. When you got down to the lower bridge what did you do then?

A. I helped to get the boat out; the gig out.

Q. On what side? A. On the port side.

Q. Who got into that boat?

A. The captain's wife and his two children, the third engineer and some Chinamen.

Q. What did you do then? A. After that?

Q. Yes.

A. I went over on the port side to the house, the officers' house, and helped there to get the port lifeboat out.

Q. Then what did you do?

A. After we got that out I got the other Chinamen down there and went down there myself. [103—61]

Q. Into the port lifeboat?

(Deposition of Arvid Bjorn.)

A. Into the port lifeboat.

Q. And from there you went to the "Beaver"?

A. Yes, sir.

Q. How soon after the collision was it that the "Selja" sank?

A. It was only a matter of minutes, about.

Q. Only a matter of minutes? A. Yes, sir.

Q. What kind of a whistle has the "Selja"?

A. She had a good whistle, a strong whistle.

Q. Mr. Bjorn, did you sign the bridge log for November 22d after coming on shore?

A. Yes, sir.

Q. When did you sign that?

A. The day after, the morning after.

Q. That was on the 23d? A. Yes, sir.

Q. Did you lose anything by the collision?

A. Yes, sir.

Q. Did you make a list of what you lost?

A. Yes, sir.

Q. Did you put the prices down? A. Yes, sir.

Q. Were these prices the value of the things in your judgment at the time they were lost?

A. Yes, sir.

Q. Let us see the list.

A. (Producing.) I lost all I had.

Q. Who was on the bridge at the time you heard that steamer's whistle for the first time a little after 3?

A. The captain and I believe the chief officer was there at the time, or right afterwards.

Mr. DENMAN.—This is all right.

(Deposition of Arvid Bjorn.)

Mr. McCLANAHAN.—It is stipulated that the value at the time of the collision of the personal effects lost by the witness was $249.90.

Mr. DENMAN.—Yes.

Cross-examination.

Mr. DENMAN.—Q. Now, the fact is, isn't it, that during that fog which came on you early in the morning or late at night the [104—62] night before you were going at full speed at times during the fog?

A. Yes.

Q. And you went on watch at 12 o'clock before the collision? A. At noon, yes.

Q. And you had charge of the whistle cord from then until the time that the full speed astern was given, did you not? A. Yes, sir.

Q. So that you were in the pilothouse during all that time? A. I was on the bridge.

Q. Whereabouts did you pull the whistle from? Where was that attached?

A. That is attached on the bridge, right just over the compass; there is a handle hanging down.

Q. You were right beside that during all that period, were you? A. What is that?

Q. You were right beside the whistle during all that time, were you? A. Yes, sir.

Q. Between 12 o'clock noon and the time full speed astern was given? A. Yes.

Q. And the captain came up on the bridge about 3 o'clock? A. In the afternoon?

Q. Yes. A. He was there from before 1.

Q. Before 1? A. Yes.

(Deposition of Arvid Bjorn.)

Q. How high is the bridge above the water with the ship laden as she was?

A. I could not tell you for sure, but between 9 and 10 yards, or a little more.

Q. 9 or 10 yards; that is about 33 feet.

A. I don't remember how many feet it is in a yard.

Q. About three feet in a yard.

A. Yes, about that.

Q. It is about between 30 and 35 feet above the water? A. Yes. [105—63]

Q. How wide is the "Selja"?

A. She is about 49 or 50 feet.

Q. 50 feet wide? A. Yes, about.

Q. Now, as I understand it, at 3:15 you saw the "Beaver" coming on you at about right angles and you say she seemed to have speed on at that time?

A. Yes.

Q. And she continued and finally struck you at about right angles somewhere about 70 feet aft the bow? A. 70 feet aft the bow?

Q. Yes. A. Yes, something around there.

Q. Somewhere around there? A. Yes, sir.

Q. And as I understand it it was the capt[illegible] that gave the order to go full speed astern, was it not?

A. Yes, sir.

Q. Did he whistle it down through the speaking tube or signal it?

A. When he gave the order to the engine-room?

Q. Yes. A. He gave it by the telegraph.

Q. That was right alongside of him, was it not?

A. Yes, sir.

(Deposition of Arvid Bjorn.)

Q. You and the captain knew from about 3:05 that there was a vessel approaching, didn't you?

A. Not from 3:05, no, sir, we didn't know.

Q. Well, you say that at 3 o'clock you heard your first whistle in the distance.

A. Some minutes after 3 I heard the first whistle, yes; a little after 3.

Q. By the way, you know this log; that was signed by you? A. Yes, sir.

Q. When was that made up?

A. When the log was made?

Q. When was that log made up?

A. When I came ashore.

Q. You all got together and talked it over, did you not? A. Yes, sir.

Q. The engineers and the captain and the deck officers as well? A. Yes, sir. [106—64]

Q. And you all read it over afterwards?

A. Yes, sir.

Q. And the engineers and all of you agreed that the log was correct, did they not? A. Yes, sir.

Q. In the log you state that you heard the first whistle at about 3 o'clock; that is about correct, is it not? A. Yes, about. A little after I said.

Q. You say at 3 o'clock in the log? A. About 3.

Q. So that you heard the whistle for about five minutes before you gave dead slow speed, didn't you?

A. The vessel was going at half speed up to 3.

Q. At 3 o'clock you were going at half speed, you say? A. Yes.

Q. Then between 3 and 3:05 you concluded to go

(Deposition of Arvid Bjorn.)

dead slow speed and at 3:05 you went at dead slow speed; is that correct?

A. At 3:05 slowed her down.

Q. Because you heard this vessel approaching; that is correct, is it not? A. Yes.

Q. Now, you knew from 3:05 that there was a vessel approaching you?

A. We didn't know that before about the time the captain ordered the engines stopped.

Q. And the captain was right by the telegraph where he could give any signal he wanted to?

A. Yes, he was right there.

Q. He stayed right there up until the reversing signal was given? A. Yes, sir.

Q. He did not move away from there?

A. No, sir.

Q. So he would be able to give a quick warning if it was necessary? A. Yes, sir.

Q. You are sure of that?

A. I am absolutely sure of that.

Q. That was up to 3:15 when the reversing signal was given.

A. I did not look at the clock at the time of the reversing.

Q. I mean up to the time the reversing signal was given. [107—85] A. Yes, sir.

Q. He was not away five feet during that time?

A. No, sir.

Q. So he could be right there and give his command, if necessary? A. Yes, he was right there.

Q. You signed this log on the 23d, didn't you?

(Deposition of Arvid Bjorn.)

A. Yes, sir.

Q. Then you signed it again yesterday, didn't you, or was it the day before?

A. That was the day before.

Q. The day before yesterday; that was Wednesday of this week? A. Yes, sir.

Q. Did you look over the engineer's log?

A. No, sir, I did not.

Mr. DENMAN.—That is all.

Mr. McCLANAHAN.—That is all.

(A recess was here taken until 2 P. M.) [108—66]

AFTERNOON SESSION.

Mr. McCLANAHAN.—I suppose it may be shown by stipulation we have consented to Captain Rasmussen acting as the Norwegian interpreter.

Mr. DENMAN.—Yes.

Mr. PAGE.—What is your full name, Captain?

Mr. RASMUSSEN.—Rasmus Rasmussen.

(Rasmus Rasmussen was sworn to act as interpreter.)

[Deposition of Peder Hansen, for Libelant.]

PEDER HANSEN, called for the libelant, having been duly sworn through the interpreter, testified as follows:

Mr. McCLANAHAN.—Q. What is your full name? A. Peder Hansen.

Q. How old are you? A. 36 years.

Q. Where do you live? A. In Bergen, Norway.

Q. What is your business? A. I am engineer.

(Deposition of Peder Hansen.)

Q. Are you a native born Norwegian?

A. Yes, sir.

Q. Can you speak the English language?

A. No, sir.

Q. What papers do you hold?

A. Third engineer's papers.

Q. How long have you held them?

A. Six years.

Q. Were you third engineer on the "Selja" on the 22d of November, 1910? A. Yes, sir.

Q. What was your watch on that day?

A. From 12 to 4 in the morning.

Q. When you went on watch at 12 o'clock midnight what were your engines doing?

A. Full speed.

Q. Did you receive any order from the bridge after 12 o'clock? A. Yes, sir.

Q. What was the order? [109—67]

A. He says he got the orders to slow down to half speed between 2 and 3 o'clock.

Q. After this order to slow to half speed did you receive any other orders on that watch?

A. I got the orders to stop.

Q. When you got this order for half speed did you execute it? A. Yes, sir.

Q. When you got the stop order did you execute it? A. Yes, sir.

Q. When you left your watch at 4 o'clock what were your engines doing? A. Full speed.

Q. What was your next watch, Mr. Hansen?

A. From 12 to 4 in the afternoon.

(Deposition of Peder Hansen.)

Q. When you went to the engine-room at 12 o'clock noon what were your engines doing?

A. Very slow.

Q. Does that mean dead slow?

A. Dead slow ahead; just about steerage way on the ship.

Q. After you went on watch at noon did you receive any other orders touching your engines?

A. I got the order at 1 o'clock to go half speed.

Q. Did you execute that order? A. Yes, sir.

Q. How soon after you received it?

A. He says, I got that order at 3:05 in the afternoon; at 3:05 o'clock in the afternoon.

Q. (Addressing the interpreter.) I guess you did not understand my question. We are speaking of the order at 1 o'clock. Turn back and read it, Mr. Reporter.

(The reporter reads the question.)

Q. After he received the order at 1 o'clock to go half speed how soon did he execute it?

A. Right off.

Q. After you had received the order at 1 o'clock what was the next order you received?

A. He says, I got orders at 3:05 to go very slow. [110—68]

Q. (Addressing the interpreter.) Did he say "very" slow?

The INTERPRETER.—Very slow.

Mr. McCLANAHAN.—Ask him if he said that.

The INTERPRETER.—He said "slow."

Mr. McCLANAHAN.—Q. Then he got an order

(Deposition of Peder Hansen.)

at 3:05 to go slow? A. To go slow.

Q. How soon after receiving that order did he execute it? A. Right off.

Q. After the order at 3:05 to go slow, did he receive any other order?

A. He says, I got orders at 3:10 to stop.

Q. When did he execute that order?

A. Right off.

Q. After that order did he receive any other orders?

A. He says, orders 3:15 to go full speed astern.

Q. When did he execute that order?

A. Right off.

Q. Who was in the engine-room when you received the order to go full speed astern?

A. Myself and the oiler.

Q. Anyone there but himself and the oiler?

A. No; that was all.

Q. After you received the order full speed astern did anyone else come into the engine-room?

A. He said, a half minute after he got the order the chief engineer came there.

Q. Anyone else?

A. And the second engineer; the two of them came in.

Q. What happened after that second engineer and chief engineer reached the engine-room?

A. We went full speed astern.

Q. Who received that order full speed astern?

A. Mr. Hansen.

Q. You were at the telegraph? A. Yes, sir.

(Deposition of Peder Hansen.)

Q. Who executed it. (Addressing the interpreter.) I said, "Captain, who executed it"?

The INTERPRETER.—It was Hansen that worked the machine astern. [111—69]

Mr. McCLANAHAN.—I thought the witness had just stated that he worked the telegraph.

The INTERPRETER.—He said he worked the machine; this was Hansen who worked the engine astern. I asked him who worked the engine when the chief engineer and the second engineer came to him and he said it was him, he worked the engine himself.

Mr. McCLANAHAN.—Well, put it this way: When you received the order full speed astern from the telegraph who operated the engine and put it full speed astern?

The INTERPRETER.—It was this man that put the engine astern and went full speed astern.

Mr. McCLANAHAN.—What is the word "engine" in Norwegian, Mr. Interpreter?

The INTERPRETER.—Engine is the "machine."

Mr. McCLANAHAN.—"Machine" is the Norwegian for it, then?

The INTERPRETER.—Yes.

Mr. McCLANAHAN.—Q. What was the next order after you received the order full speed astern?

A. Stop.

Q. Was the chief and the second engineer in the engine-room when the stop order was given?

A. Yes.

Q. Who took that order from the telegraph?

(Deposition of Peder Hansen.)

A. It was Mr. Hansen.

Q. Who operated the engine?

A. The chief engineer.

Q. How soon after the order to reverse full speed astern was the order executed by the witness? (Addressing the interpreter.) Are you sure you have got the question right, Captain? I am told you are not giving the right question. What question are you asking the witness?

The INTERPRETER.—Well, I asked him how soon he got the order to stop the engine.

Mr. McCLANAHAN.—That was not my question, Captain. My question [112—70] is: how soon after he got the order full speed astern did he execute it? A. Right off.

Q. Between the order full speed astern and the stop order had anything happened in the engine-room? A. No, nothing.

Q. Did you feel the impact of the collision?

A. Yes, I felt it.

Q. Did not that impact come between the full speed astern and the stop order? A. Yes, sir.

Q. After the stop order from the bridge was there any other communication received in the engine-room from the bridge?

A. The captain, he spoke in the trumpet for everybody to come up out of the engine-room.

Q. What was your steam pressure when you put your engines full speed astern?

A. About 175 pounds.

Q. What kind of a whistle has the "Selja"?

(Deposition of Peder Hansen.)

A. Very good.

Q. Did you lose anything by this collision, Mr. Hansen? A. I lost all of it.

Q. Have you got a list of your things lost?

A. Yes; it is all there, the price and everything (producing).

Q. Is the price the value of the articles lost as of the time of the collision?

A. Yes; he says it is just right as he paid for it.

Mr. DENMAN.—That is satisfactory.

Mr. McCLANAHAN.—It is stipulated that the value of the personal effects lost by the witness as a result of the collision was $292.50.

Cross-examination.

Mr. DENMAN.—Q. Did you sign this log (showing witness Exhibit 1)? A. Yes, sir.

Q. I notice in the log you say you were backing for three minutes; is that correct?

A. Between two and three minutes. [113—71]

Q. The log says three minutes. Is that correct?

A. He says cannot exactly tell because he did not look at the watch, but it is between two and three minutes.

Q. He is certain that it was more than two minutes? A. Yes; he says a little more than two.

Q. Did you run the engine astern after the vessel struck? A. Yes, sir.

Q. How long was that, about half a minute?

A. For a minute.

Q. Is he sure of that? Was it not less than a minute? Was it not between half a minute and one

(Deposition of Peder Hansen.)

minute? A. About a minute.

Q. Did you look at the watch for any of these?

Mr. McCLANAHAN.—I object to the question on the ground it is indefinite, any of these.

Mr. DENMAN.—Q. Any of these estimates of time as to how long she was backing, did you look at the watch? A. No, he didn't look at the watch.

Q. To determine how long she was backing any of the periods?

A. I did not look at a watch because I did not have the time.

Q. When was the log made up—this document here that you signed, when was that composed? (Showing the witness Exhibit 1.)

A. The next day after we came ashore, November 23d.

Q. Did you sign it on the 23d? A. Yes, sir.

Q. Did you sign another one on Wednesday of this week? A. Yes, sir.

Mr. DENMAN.—That is all.

Mr. McCLANAHAN.—That is all. [114—72]

(LIBELANT'S EXHIBIT 1—Transmitted under separate cover as per stipulation and order of Court embodied in this Transcript. See Exhibits.) [115]

(LIBELANT'S EXHIBIT 2—Transmitted under separate cover as per stipulation and Order of Court embodied in this Transcript. See Exhibits.) [116]

[Commissioner's Certificate to Depositions of Axel Andersen et al.]

United States of America,
State and Northern District of California,
City and County of San Francisco.

I, James P. Brown, a United States Commissioner for the Northern District of California, do certify that, in pursuance of the stipulation hereunto annexed, on Friday, December 2d, 1910, at the hour of 9 o'clock A. M., at the office of Messrs. McClanahan & Derby, in the Merchants' Exchange Building, in the City and County of San Francisco, State of California, personally appeared Axel Andersen, Arvid Bjorn, Rambek Eggen, Alfred Halvorsen, Peder Hansen and Alfred Larsen, witnesses on behalf of the libelant in the cause entitled in the caption hereof, and Messrs. McClanahan & Derby appeared as Proctors for the libelant, and William Denman, Esq., and Charles Page, Esq., of the firm of Messrs. Page, McCutchen, Knight & Olney, appeared as proctors for the libellee and claimant, and the said witnesses, being by me first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in said cause, and being carefully examined, deposed and said as appears by their depositions hereto annexed.

I further certify that by stipulation of counsel Rasmus Rasmussen was sworn to act as interpreter in the examination of the witness Peder Hansen.

I further certify that the said depositions were

then and there taken down in shorthand notes under my personal supervision by Edward W. Lehner, a competent stenographer, and were by him put into typewriting; and I further certify that, by stipulation of the proctors for the respective parties, the reading over of the depositions to the witnesses and the signing thereof was duly waived.

Accompanying said depositions and annexed thereto and forming [117—73] a part thereof are Libelant's Exhibits 1 and 2, introduced in connection therewith and referred to and specified therein.

I further certify that I have retained the said depositions in my possession for the purpose of delivering the same with my own hands to the United States District Court for the Northern District of California, the Court for which the same were taken.

And I further certify that I am not of counsel nor attorney for any of the parties in the said depositions and caption named, nor in any way interested in the event of the cause named in the said caption.

IN WITNESS WHEREOF, I have hereunto subscribed my hand at my office in the City and County of San Francisco, State of California, this 13th day of December, 1910.

[Seal] JAS. P. BROWN,
United States Commissioner, Northern District of California, at San Francisco.

[Endorsed]: Filed Dec. 13, 1910. Jas. P. Brown, Clerk. By Francis Krull, Deputy Clerk. [118—74]

[Testimony Taken Before Commissioner.]

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A. J. Frey (recalled)..	469	474	494	495	
Carroll C. Dickson....	496	501			
	502	503	509		
R. F. Lopez	511	523	540	543	
			544	545	
Octavia Buckingham ..	546	548			
William Kidston	553	574			

In the District Court of the United States in and for the Northern District of California.

OLAF LIE et al.,

Libelants,

vs.

The American Steamship, "BEAVER," etc.,

Respondents.

BE IT REMEMBERED that on Saturday, June 10th, Monday, June 12th, Wednesday, June 14th, Thursday, June 15th, Friday, June 16th, Saturday, June 17th, 1911, and Friday, July 21st, Saturday, July 22d, Monday, July 24th, Tuesday, July 25th, Wednesday, July 26th, Friday, July 28th, Saturday, July 29th, Monday, July 31st, 1911, and Tuesday, August 1st, Thursday, August 3d, Friday, August 4th and Monday, August 7th, 1911, pursuant to order of reference to take and report the testimony herein, personally appeared before me James P. Brown, a United States Commissioner for the Northern District of California, to take acknowledgments of bail and affidavits, etc., William H. Stewart, Olaf Lie, Adolph Julius Frey, David W. Dickie, Lionel Heynemann, James Dickie, Robert E. Judson, Joseph W. Ettershank, John Albrethsen, Frederick Amor, John Hanson, Robert S. Paul, R. B. Seike, Carroll C. Dickson, R. F. Lopez, Octavia Buckingham, William Kidston, John K. Bulger, E. B. McClanahan, William W. Broaddus, Johanne Lie, A. J. Johnson, Edward Johnson, George Scott, Alexander Swanson, J. E. McCulloch, A. G. McAdie, F.

Westdahl, [120*—1†] William Denman, John Von Helms, Kowlson Townsend, and John Hyslop, witnesses produced on behalf of the libelants and respondent.

Messrs. McClanahan & Derby, appeared as Proctors for the Libelants, Charles Page, Esq., and William Denman, Esq., appeared as proctors for the respondent, and L. T. Hengstler, Esq., appeared as proctor for the claimants, and the said witnesses having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid, did thereupon depose and say as is hereinafter set forth: [121—1½]

[Testimony of William H. Stewart, for Libelant.]

Saturday, June 10th, 1911.

WILLIAM H. STEWART, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. What is your name?

A. William H. Stewart.

Q. What is your occupation?

A. Surveyor to Lloyds' Register, Marine Surveyor.

Q. How long have you been engaged in that business? A. About 11 years.

Q. You were associated with Captain John Metcalfe? A. Yes.

Q. And he is also a surveyor for Lloyds?

A. Yes, sir.

Q. Do you know the steamship "Beaver"?

A. Yes, sir.

*Page-number appearing at foot of page of certified Transcript of Record.
†Original page-number appearing at foot of page of Testimony as same appears in Certified Transcript of Record.

(Testimony of William H. Stewart.)

Q. Do you remember the collision between the "Beaver" and the "Selja" on November 22d, last?

A. I remember reading of it, yes.

Q. When did you see the "Beaver" after that collision? A. On November 26th.

Q. Where was she?

A. Hunter's Point Drydock.

Q. Was she in drydock at the time?

A. Yes, sir.

Q. Did you make an examination of the bow of the "Beaver" at that time? A. I did.

Q. From that examination could you tell how far the "Beaver" had penetrated the "Selja"?

A. Well, the plating—

Mr. DENMAN.—Q. That calls for an answer yes, or no. Could you tell?

A. Well, I could tell how far aft the plating and the paint were damaged, evidently from collision.

Mr. McCLANAHAN.—Q. What was the marking on the port side or the damage that you saw on that examination, and how far did it extend from the stem?

A. On the port side the damage extended back about 18 feet.

Q. And how far back from the stem on the starboard side? [122—2]

A. About 10 feet.

Q. How did you know it was 18 and 10 respectively? Did you measure it, or did you guess at it?

A. I stretched a tapeline from the stem aft, and also counted the frame spaces to check it up.

(Testimony of William H. Stewart.)

Q. On the starboard side that measured 10 feet and on the port side 18 feet? A. Yes, sir.

Q. By the tapeline? A. Yes, sir.

Q. Who assisted you in that work, if any one?

A. Captain Metcalfe.

Q. Captain Metcalfe is now out of the city on account of his health, is he not? A. Yes, sir.

Cross-examination.

Mr. DENMAN.—Q. You say that the paint was scratched back 18 feet on one side and 10 feet on the other? A. Yes, sir.

Q. As if the boat had swung around and scratched on the side?

A. Well, I don't know that it had swung around, but the marks were very distinct up to those points on either bow.

Q. But there was a scratching of paint on either side of the vessel.

A. Yes, the paint and the plates were scratched, and the plates more or less indented.

Q. How far back were they indented?

A. Well—

Q. By the way, did you see the photographs that were taken of her? A. No, sir.

Q. How far back were they indented?

A. On the starboard side there was a hole punctured. May I refer to my notes now?

Q. Yes.

A. I cannot state definitely how far back the indentations went, but, as near as I can recollect, on

(Testimony of William H. Stewart.)

the starboard side that hole was pretty nearly 10 feet from the stem. [123—3]

Q. Those are the notes you refreshed your memory from? A. Those are the notes.

Q. Let me take a look at them, if you will, please.

A. Yes (handing).

Mr. DENMAN.—That is all.

[Testimony of Captain Olaf Lie, for Libelant.]

OLAF LIE, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. What is your age, Captain? A. 37.

Q. Where is your residence? A. Norway.

Q. Are you a Norwegian by birth?

A. Yes, sir.

Q. You do not want an interpreter, do you?

A. No, sir.

Q. You were the master of the steamship "Selja"?

A. Yes, sir.

Q. The vessel that was sunk in this collision?

A. Yes, sir.

Q. What was your first experience, Captain?

A. Well, I was six years before the mast.

Q. And after that what was your next experience in the line of your business?

A. I went into the Government Nautical School and studied at that school for six months.

Q. When was that? A. 1897 and 1898.

Q. Was that the Government Nautical School of Norway? A. Of Norway, yes.

Q. For what purpose did you enter the school at

(Testimony of Captain Olaf Lie.)

that time? A. To get a mate's certificate.

Q. Did you get a mate's certificate?

A. Yes, sir.

Q. After passing your examination?

A. Yes, sir.

Q. What was your next experience?

A. I served my time in the Norwegian Navy.

Q. That was compulsory, was it?

A. Yes, sir. [124—4]

Q. For how long was that?

A. From May to July, about three months.

Q. What year? A. 1898.

Q. After serving your time in the Norwegian Navy what was your next experience?

A. I joined a schooner as mate, first mate.

Q. After that what was your next experience?

A. On a sailing bark I became second officer.

Q. What was your next experience after that in the line of your profession?

A. I went in the same school as I passed as a mate for an instructor.

Q. That is, you became an instructor in the Government Nautical School? A. Yes, sir.

Q. In which you had passed as mate?

A. Yes, sir.

Q. How long were you an instructor in this Nautical School? A. Nearly seven months.

Q. Do you remember the time?

A. From the beginning of October, 1899, to the latter end of April, 1900.

Q. After leaving the Government school, what

(Testimony of Captain Olaf Lie.)

was your next experience?

A. I made a few trips in an excursion steamer on the coast of Norway.

Q. In what capacity? A. Seaman.

Q. For how long a time was that?

A. About three months.

Q. After quitting that service what did you next do?

A. I entered the Government Nautical School in Bergen to pass as master.

Q. When was that?

A. I commenced that the first of September, 1900.

Q. How long were you engaged in your studies for that examination?

A. Engaged in the studies up to the first of February, 1901.

Q. Then you took your examination?

A. Yes, sir. [125—5]

Q. How long did that examination last?

A. Nineteen days.

Q. Did you pass? A. Yes, sir.

Q. How many were in the class?

A. There were 60 that passed that year.

Q. What was your rank in passing?

A. At the head of the class.

Q. What, after passing and securing your master's papers, did you do next?

A. I became second officer of a coasting steamer.

Q. Who is the owner of the "Selja"?

A. Wilhelm Jebsen.

Q. When did you first enter the service of Wilhelm

(Testimony of Captain Olaf Lie.)

Jebsen? A. The middle of November, 1901.

Q. What was the first vessel belonging to Wilhelm Jebsen that you had any connection with?

A. The "Symra."

Q. What was your connection with that vessel?

A. Chief officer.

Q. When did you associate yourself first with the "Symra"?

A. I went on her the middle of November, 1901.

Q. The middle of November, 1901; that was at the time you first entered the services of Wilhelm Jebsen? A. Yes, is the first time.

Q. Now, Captain, how long were you first officer with the "Symra," until what date?

A. To the 15th of August, 1904.

Q. Will you tell us now briefly your sea experience on the "Symra," starting with your first voyage.

A. I joined her at Montreal, Canada, and from Montreal we went to Newport News, loaded a cargo of coal there for Manila; from Manila we went back to Boston; from Boston we went to Cape Brittain, Canada, and traded on that coast for six months during the summer of 1902; from there we left in January, 1903, for a place close to Savannah, called Sapolo, and loaded lumber for [126—6] Bourdeux and Aberdeen; from Aberdeen we went to Bergen, arriving at Bergen the 11th of March, 1903. I stayed home for a month during which time I got married. I left Bergen again Saturday, the 11th of April—

Q. What year?

A. 1903, for Norvik, loaded iron over there for

(Testimony of Captain Olaf Lie.)

Rotterdam, and continued in this trade up to September of that year. Then we went to Hudiksval, loaded lumber for Alexandria, Egypt; from there we went back to Hull, England; from Hull we went to New York, from New York to Havre, from Havre to Cardiff, England; from Cardiff we went to Spain, to a little place which I do not remember any more—it is so little that I do not remember the name of that place, a funny name; from there to Stockholm, from Stockholm to Hudiksval again, and from there to Alexandria; from Alexandria to Azow in the Black Sea; from there we went to Brunsbutle—that is a suburb of Hamburg—and arrived there on the 15th of August, and I left the steamer.

Q. You left the "Symra"?

A. I left the "Symra" there, yes.

Q. What vessel did you next associate yourself with belonging to Mr. Jebsen, after leaving the "Symra"? A. The "Sildra."

Q. What was your position on the "Sildra"?

A. Chief officer.

Q. Will you give us your sea experience while on the "Sildra."

A. I joined her at Sunderland, in England, just when she was completed, new; went from there to Hudiksval, from there to Alexandria, Egypt; from there to Calcutta; from there to Colombo; from Colombo to Melbourne, Melbourne to Sydney; Sydney to Newcastle—this is New South Wales. From there to Manilla; we left Manilla the first of April, 1905, to Moji, Japan; from Moji to Hongkong and

(Testimony of Captain Olaf Lie.)

traded between Hongkong and Moji up to August, 1905. [127—7] From Hongkong the last trip we went to Java to load sugar for Japanese ports; in Java the captain got ill and I took command of the "Sildra" on the 9th of September, 1905; I went from there to Yokohama, from Yokohama to Moji, from Moji to Newcastle, New South Wales, where the captain resumed service the 20th of November, 1905. Then we traded between Newcastle, New South Wales, and Manila for a year, with one trip to Java. On the 23d of November, 1906, we left Newcastle, New South Wales for Honolulu; from Honolulu we went to Ocean Island—that is the South Sea Islands—from Ocean Island back to Honolulu, Honolulu to San Francisco.

Q. When was that, Captain, that you first arrived in San Francisco?

A. Well, I do not remember the date. It is the day before Good Friday, 1907—I don't remember the date.

Q. Was that your first visit to San Francisco?

A. Yes, as an officer, the first time. I was here in a sailing vessel a long time ago.

Q. Proceed.

A. I left the "Sildra" then in San Francisco the 9th day of April.

Q. What year?

A. 1907; and went home for a vacation. During this time the "Selja" was commenced on, building, and I joined her as master when she was completed.

Q. When did you first join the "Selja"?

(Testimony of Captain Olaf Lie.)

A. I joined her three weeks before she was finished.

Q. When was she finished?

A. She was finished the 7th of November, 1907.

Q. Whereabouts was she built?

A. West Harterpool, England.

Q. Were you there representing Mr. Jebsen during her construction, at any time?

A. Yes; three weeks before she was finished. [128—8]

Q. In what capacity?

A. As master, to look after the fitting out of the ship and buy all the necessary stores and outfit which was not included in the contract price of the vessel.

Q. Were you on the "Selja" when she made her trial trip? A. Yes, sir.

Q. Will you please tell us now, Captain, your sea experience on the "Selja"?

A. The trial trip of the "Selja" was made the 8th of November, 1907, at West Harterpool; from there we went to Cardiff, from Cardiff to Punta Arenas.

Mr. DENMAN.—What is the relevancy of this?

Mr. McCLANAHAN.—I am qualifying the captain.

Mr. DENMAN.—For what?

Mr. McCLANAHAN.—As an expert.

Mr. DENMAN.—On what?

Mr. McCLANAHAN.—On what?

Mr. DENMAN.—Yes.

Mr. McCLANAHAN.—On matters material and relevant to the case.

Mr. DENMAN.—As a builder of a vessel, or what?

(Testimony of Captain Olaf Lie.)

Mr. McCLANAHAN.—I am going to follow this up; if you want to object to it, you can.

Mr. DENMAN.—I am inquiring what the purpose of this long line of testimony is.

Mr. McCLANAHAN.—I say, I am qualifying him as an expert in this case.

Mr. DENMAN.—What kind of an expert?

Mr. McCLANAHAN.—Every point.

Mr. DENMAN.—What kind of an expert, Mr. McClanahan, a navigator?

Mr. McCLANAHAN.—As an expert in this case in any matter which may be material.

Mr. DENMAN.—You might have 40 experts in a case. [129—9]

Mr. McCLANAHAN.—You would not consider there was room for 40 experts of different kinds in this case.

Mr. DENMAN.—As an expert engineer,—on the question of navigation, or what?

Mr. McCLANAHAN.—You ought to know.

Mr. DENMAN.—Will you state what kind of an expert you want to make him.

Mr. McCLANAHAN.—Several kinds of an expert.

Mr. DENMAN.—What are the several kinds; there are several kinds; what are they?

Mr. McCLANAHAN.—I am not going to be catechised by you.

Mr. DENMAN.—I am asking for the purpose of determining what the purpose of your examination is.

Mr. McCLANAHAN.—I have answered your

question fairly. He is being qualified as an expert in matters material to this case.

Mr. DENMAN.—You have not told us what kind of an expert.

Mr. McCLANAHAN.—That is as far as I will give it to you.

Q. Proceed, Captain.

A. Punta Arenas; that is in the Straits of Magellan; from there we went to Valparaiso; from Valparaiso to Bahia, Blanco; from there to Rotterdam; Rotterdam to Port Talbot, in England, or in Wales, rather; from there we went to Coronel for orders; then to Molliendo, Peru; from Molliendo to San Francisco for orders; from San Francisco to Port Townsend for orders.

Q. Do you remember when you arrived at San Francisco this second time, the first time on the "Selja"?

A. It was between the 13th and the 15th of October, 1908.

Q. Do you remember when you arrived in Portland for orders?

Mr. DENMAN.—Port Townsend, you mean.

Mr. McCLANAHAN.—Q. Yes, Port Townsend.

[130—10] A. The 19th of October.

Q. The same year?

A. Yes, the same year. From there we went to Panama; from Panama to Portland, Oregon; from Portland, Oregon, to Nanaimo, British Columbia; Nanaimo to Mororan, Japan; from Mororan to Takubar; from Takubar to Chung Wan Tow; from there

(Testimony of Captain Olaf Lie.)

to Hongkong; from Hongkong to Manila; Manila to Hongkong, arriving at Hongkong the 8th of May, 1909. Monday, the 10th of May, at noon, we commenced the service for the Portland Asiatic Steamship Company.

Q. Under a time charter? A. Yes, sir.

Q. Do you know when that time charter expired, or was to expire?

A. It was to expire the 10th day of May, 1912. From Hongkong we sailed to Moji, Moji to Kobe, Kobe to Yokohama, Yokohama to Portland, Oregon, arriving at Portland, Oregon, Monday, the 14th day of June, 1909; sailed from Portland the 3d of July of the same year for Yokohama; Yokohama to Kobe, Kobe to Hongkong, and sailed again from Hongkong the 14th of August the same year for Moji, to Kobe, Chimitsi, Yokohama, and Yokohama to San Francisco, arriving at San Francisco Sunday afternoon, the 19th of September, 1909. Sailed from San Francisco to Portland, Oregon, arriving at Portland the 26th of September the same year, where my family came on board. From there we sailed again to Yokohama, from Yokohama to Kobe; from there we should have sailed to Hongkong but we met with an accident in the Inland Sea, and returned again—we did not go to Hongkong.

Q. Proceed, Captain.

A. From Yokohama at that time we went to Honolulu, Honolulu to Portland, Oregon, arriving at Portland, about the 10th day of January, 1910; Portland, Oregon, to Yokohama again, Yokohama to Kobe,

(Testimony of Captain Olaf Lie.)

Moji and Hongkong, arriving [131—11] at Hongkong the 28th of February, 1910; then back again to Moji, Kobe, Yokohama and Honolulu, Portland; from Portland to Moji, Manilla and Hongkong; sailed from Hongkong the 10th of July, 1910, back to Moji, Kobe and Yokohama, and Portland, Oregon, arriving at Portland, Oregon, the 6th of August, 1910; from there again we sailed on the 2d of September of the same year to Yokohama and to Moji, Manilla and Hongkong; from Hongkong we sailed on the 20th of October, 1910, to Moji, Kobe and Yokohama, and left Yokohama on the 2d of November, 1910, between 5 and 6 P. M., and passed Point Reyes 2:50 and was in the collision at 3:16, about.

Q. That is the collision in suit here?

A. Yes; that is P. M., that is at 3:16 P. M. on November 22d.

Q. Captain, have you had any experience during this sea life in fogs? A. Yes, many times.

Q. Where has your experience been most extensive in fogs?

A. On the coast of Canada, or the United States coast around Boston; that is, between Boston and Canada, around the coast there.

Mr. DENMAN.—Q. New Brunswick and that country there? A. Yes; Cape Brittain.

Mr. McCLANAHAN.—Q. Do you know the difference between the sound of a steamer's whistle and the sound of a land siren?

A. Yes; if I was close enough to it I could hear the difference.

(Testimony of Captain Olaf Lie.)

Q. What is the difference?

A. In the siren there is a difference of vibration—it is very hard to explain; it is currents of air you might say, hoo, hoo, hoo, like that, in a siren. [132—12]

Q. Sound waves?

A. While in a steamer it is steady.

Q. Have you ever had any difficulty in locating the position of sounds that you have heard in fogs?

A. Not when I hear them long enough, no sir.

Q. Captain, how long was the "Selja"?

A. Three hundred and eighty feet between perpendiculars.

Mr. DENMAN.—Q. What does that mean?

A. That is between the stem and the stern post.

Mr. McCLANAHAN.—Q. What is her beam?

A. Forty-nine feet from the plating.

Q. What is her loaded draught?

A. 23 feet 6 inches.

Q. What is her displacement when she is fully loaded? A. 10275.

Q. Do you remember her draught on her trial trip, forward?

A. Her draught was 7-11 forward, and 15 feet aft.

Q. What was the corresponding displacement of that draught? A. 4660.

Q. Tons? A. Tons.

Q. What is the pitch of the "Selja's" propeller?

A. 16 feet 3 inches.

Q. What were her maximum revolutions on her trial trip? A. 74.

(Testimony of Captain Olaf Lie.)

Q. What was her indicated horse-power on the trial trip at those revolutions? A. 1989.

Q. What was her maximum speed on the trial trip?

A. Eleven knots.

Q. What was her mean draught on leaving Yokohama for San Francisco on this last trip?

A. 18 feet 2½ inches.

Q. What coal did she consume on that voyage up to the collision? A. About 780 tons. [133—13]

Q. What were the revolutions of her engines on this voyage, the maximum revolutions under full speed? A. About 64.

Q. Captain, before the collision when had you taken your last observation?

A. That was taken at 10:10 P. M. the 21st of November.

Mr. DENMAN.—Q. You mean P. M.? A. Yes.

Mr. McCLANAHAN.—Q. What was her position at that time? A. 98 miles off Point Reyes.

Q. What was her course?

A. I don't remember what the course was when we took the observation, but I altered the course at 11 o'clock, when I was finished with the observation, to south 70 east magnetic.

Q. How long did you continue on this south 70 east magnetic course? A. To 8 A. M. on the 22d.

Q. When did you first encounter fog on the 22d of November? A. About 1 o'clock A. M. on the 22d.

Q. What was the character of that fog, and what was the weather?

A. The fog up to dawn of the day was lifting oc-

(Testimony of Captain Olaf Lie.)

casionally; you could see sometimes a little longer and sometimes it shut down and you could only see two or three ship-lengths; occasionally you could see for half a mile.

Q. What was the character of the weather?

A. Fine; you could see the stars; calm practically; long rolling swell.

Q. Were you on watch at the time of first encountering the fog?

A. I was called up when the fog commenced by the third officer, and I came up on the bridge just as the first whistle was blown.

Q. As the first whistle of the "Selja" was blown?

A. Yes.

Q. What whistle?

A. The fog-whistle. [134—14]

Q. How long was the fog-whistle blown after 1 o'clock A. M. November 22d?

A. Continually up to the collision.

Q. At what intervals of time?

A. About a minute.

Q. About a minute apart?

A. Yes, about a minute.

Q. What was the "Selja's" speed at 1 o'clock A. M. November 22d? A. Full speed.

Q. Did you hear any fog-whistles that night, the night of November 22d? A. Yes, sir.

Q. What were they?

A. I heard a sailing ship at about 2 o'clock.

Q. What whistles would you hear from a sailing ship?

(Testimony of Captain Olaf Lie.)

A. Three blasts of the fog-horn, about three points on our starboard bow.

Q. What did that mean to you?

A. It meant that she was going the same way as us practically, because the wind was westerly and a light air.

Q. After hearing the fog-horn of the sailing ship—first, how many times after the first did you hear it?

A. Oh, I heard it four or five times since the first, at least.

Q. And what was the position of the sailing vessel as you continued hearing the fog-horn?

A. Passing astern on our starboard side.

Q. After hearing the fog-horn of the sailing vessel, did you hear any other whistles that night?

A. Yes, sir.

Q. What were they? A. A steamer's whistle.

Q. How long after hearing the fog-horn?

A. Oh, about 40 minutes; 40 or 45 minutes, I should say.

Q. Where was that whistle heard, the first whistle?

A. I don't know exactly.

Q. What did you do when you heard the steamer's first whistle?

A. I stopped the engines. [135—15]

Q. Did you hear any other whistles from the steamer? A. Yes, sir.

Q. Where was the next whistle that you heard?

A. About five points on our port bow.

Q. What did you do after you heard the second whistle? A. I gave full speed ahead.

Q. Started your engines again? A. Yes, sir.

(Testimony of Captain Olaf Lie.)

Q. What was the condition of the weather, Captain, in the forenoon of November 22d?

A. Very dense fog.

Q. At what distance were objects visible during the forenoon?

A. Oh, I should say about two or three hundred feet, perhaps.

Q. The fog was more dense in the forenoon of the 22d than in the afternoon? A. Yes, sir.

Mr. DENMAN.—Do not lead the witness, Mr. McClanahan. That is purely a leading question.

Mr. McCLANAHAN.—Q. How long did you continue your full speed after passing that vessel at night? A. Up to 5:30 A. M.

Q. Did you take any soundings during the forenoon of November 22?

A. Yes, sir. We took soundings every half hour from 5:30 on our easterly courses, but only twice on the westerly courses.

Q. How long did you continue taking soundings on November 22?

A. Well, we took soundings right up to the collision, but from 1 o'clock P. M. we took soundings every five minutes.

Q. Up to when?

A. Up to the time of the collision.

Q. When did you change your course from south 70 east magnetic? A. At 8 o'clock A. M.

Q. What course did you then steer?

A. West magnetic.

Q. How long did you steer that course?

(Testimony of Captain Olaf Lie.)

A. To 9:30 A. M.

Q. Did you change your course at 9:30?

A. Yes, sir. [136—16]

Q. What was it changed to then?

A. East by north.

Q. How long did you maintain that course?

A. Until 11 o'clock.

Q. Did you change it then? A. Yes, sir.

Q. What to? A. West again.

Q. How long did you maintain that course?

A. To 1 o'clock P. M.

Q. You changed it at 1 o'clock? A. Yes, sir.

Q. What to? A. South 60 east magnetic.

Q. Up to this time what was the speed of the "Selja"?

A. From 8 o'clock to 1 P. M. it was dead slow.

Q. From 8 o'clock to 1 P. M. it was dead slow?

A. Yes, sir.

Q. What was the speed changed to at that time?

A. Half speed.

Q. How long after 1 o'clock was your half speed maintained? A. Up to 3:05 P. M.

Q. How long was your south 60 east magnetic course maintained? A. Two-fifty P. M.

Q. After changing the course of the "Selja" at 1 o'clock, did you hear any whistles?

A. At 2:30 I heard a strong whistle.

Q. You heard a whistle? A. Yes, sir.

Q. What was that whistle?

A. Point Reyes fog whistle.

Q. How did it sound when you first heard it?

(Testimony of Captain Olaf Lie.)

A. Loud and clear.

Q. You are referring now to what whistle?

A. To Point Reyes whistle.

Q. Was that the first whistle that sounded loud and clear? A. Yes, sir.

Q. How do you account for the first whistle of Point Reyes sounding loud and clear?

A. Well, I only know I can say I did not [137—17] expect to hear it so much because the sailing directions says that it can't—it says it can hardly be heard to the northward of it; it seems that fog whistle is placed that way, that it is obscured, the sound is obscured to the northward.

Q. What was the bearing of this first whistle that you heard from Point Reyes?

A. Between 3 and 4 points on the port bow.

Q. What was the compass bearing?

A. The compass bearing on the second whistle was east by north.

Q. How do you know that?

A. I took the bearing of it by the compass.

Q. How long after the first whistle was the second whistle sounded? A. Thirty-five seconds.

Q. How long after hearing the first whistle from the Point Reyes siren did you continue to hear it?

A. Up to the collision.

Q. And at what intervals?

A. Thirty-five seconds.

Q. How do you know it was 35 seconds?

A. Timed it.

Q. Who timed it?

(Testimony of Captain Olaf Lie.)

A. The third officer and myself.

Q. Timed it with your watches? A. Yes, sir.

Q. At the time of hearing the first whistle from Point Reyes did you know the distance?

A. No, sir, I did not.

Q. Have you since ascertained the distance?

A. Yes, sir.

Q. What was it? A. Two and a half miles.

Q. When you say "miles," do you mean nautical miles? A. Nautical miles.

Q. Do you know the distance travelled by the "Selja" on her south 60 east course from 2:30 to 2:50 P. M.? A. Yes, sir.

Q. What was it?

A. Two miles—two nautical miles.

Q. Whenever you use the expression "Miles" you mean nautical miles, do you?

A. Yes; we never use anything else. [138—18]

Q. How many feet in a nautical mile?

A. Six thousand and eighty.

Q. At 2:50 P. M. in what direction was the Point Reyes siren then bearing from the "Selja"?

A. At 2:50?

Q. Yes, at 2:50?

A. It was abeam, north 30 east.

Q. When you heard it abeam at 2:50 did you do anything? A. Yes, sir.

Q. What did you do?

A. I went into the chartroom just soon after that; the chief officer came with the data of the surroundings and also with his log of the distance run, and

(Testimony of Captain Olaf Lie.)

I went into the chartroom and put it out.

Q. Put it out? A. Put it down on the chart.

Q. By putting it down you mean you plotted it.

A. Plotted it on the chart, yes.

Q. You say the distance was logged between 2:30 and 2:50? A. Yes, sir.

Q. By whom? A. The first officer.

Q. How soon after the whistle was heard abeam did you plot the data which the first officer had given to you? A. Oh, I should say about 5 minutes.

Q. What was the distance as you plotted it at that time from the siren to the "Selja" at 2:50?

A. On the chart I had I got it a mile and a half; it was a very small scale.

Q. Bearing north 30 degrees east, you say?

A. Yes, abeam on the south 60 east.

Q. On the south 60 east course.

A. Yes, that was abeam.

Q. How far did the "Selja" travel from 2:50 to 3 P. M.? A. A mile—a nautical mile.

Q. What direction was the Point Reyes siren bearing at 3 P. M.? A. North, magnetic. [139—19]

Q. How do you know that?

A. By the chief officer taking the bearings; I told the chief officer to take the bearings on the compass.

Q. On the compass? A. Yes, on the compass.

Q. How far was the "Selja" from the whistle at 3 P. M.?

A. She was one and seven-eighths of a nautical mile.

Q. Did you know that at that time? A. No, sir.

(Testimony of Captain Olaf Lie.)

Q. When did you know that?

A. I knew that after I came ashore.

Q. How long after was it? A. Oh, the next day.

Q. Have you at all at any time since you came ashore, Captain, verified the bearings and distances the "Selja" was from the Point Reyes siren as shown by you when you took those bearings and distances on the "Selja"? A. Yes, sir.

Q. When was that, when did you verify them?

A. That was done a few days after the collision.

Q. A few days after the collision? A. Yes, sir.

Q. What did you find the actual distance the "Selja" was from the Point Reyes siren at 2:30?

A. Two miles and a half.

Q. And what about her bearing—the same bearing? A. The same bearing, of course.

Q. What did you find her actual distance when she was abeam at 2:50?

A. One and five-eighths of a mile.

Q. And at 3 o'clock you say that the distance was one and seven-eighths of a mile? A. Yes, sir.

Q. What was the course of the "Selja" at 2:50?

A. South 60 degrees east, but it was changed at 2:50 to south 65 east. [140—20]

Q. How long did you keep this last course, south 65 east magnetic? A. Up to the collision.

Q. Captain, when this bearing, this compass bearing, at 3 o'clock was given to you by your first officer, what did you do?

A. I was intending to go into the chartroom and lay it off on the chart, but just on the moment of

(Testimony of Captain Olaf Lie.)

going I heard a whistle about right ahead.

Q. And when was it you say that you heard that whistle right ahead?

A. Just after that bearing was taken.

Q. And that bearing was taken at 3 o'clock?

A. Yes, sir.

Q. So it was a very chort time after 3 o'clock that you heard the first whistle? A. Yes, sir.

Q. That was the "Beaver," was it not—it turned out to be the "Beaver"? A. Yes, sir.

Q. Did you know at the time of hearing this first whistle the distance separating you from the Point Reyes siren?

A. I did not know exactly at that time; but I knew I was over a mile and a half off.

Q. Was the siren blowing at the time you heard the first whistle? A. Yes, sir.

Q. Did they blow together?

A. No, they did not blow together, because the Point Reyes whistle blew every 35 seconds.

Q. Well, at the time of hearing the first whistle from the "Beaver" was the Point Reyes whistle blowing then? I mean at the very moment that you heard the first whistle from the "Beaver," at that moment was the siren blowing? A. No, sir.

Q. Was there any difference between the siren whistle as you then heard it and the sound of the "Beaver's" whistle—the first whistle?

A. Yes, sir. [141—21]

Q. What was the difference?

A. The difference is that the Point Reyes whistle

(Testimony of Captain Olaf Lie.)

was much louder than the "Beaver's" whistle.

Q. How did the "Beaver's" whistle sound?

A. It sounded faint but distinct.

Q. Did it sound near or far?

A. It sounded far off.

Q. What was the character of the fog at that time?

A. The fog—you could see about two ship lengths, but the sun was shining through it.

Q. I am confining my question now to the first whistle heard by you from the "Beaver"; how was the sea at that time? A. Calm.

Q. Was there a swell?

A. Yes, long, rolling, westerly swell.

Q. Captain, were there any local noises on the ship at that time? A. No, sir.

Q. Did the vibrations of your engines going at half speed interfere with your ability to hear this whistle ahead of you? A. Not the slightest.

Q. Did you know when you heard the first whistle that it was the whistle of a steamer?

A. No, sir, I did not know at that time.

Q. What did you think that it might have been if it was not a steamer?

A. Well, at that time, it just came into my mind that it might be one of the fog-horns off Golden Gate.

Q. What fog-horn could it possibly have been?

A. Well, the only thing was Point Bonita.

Q. How far were you from Point Bonita at that time?

A. The exact distance I did not know, but I knew I was over twenty miles.

(Testimony of Captain Olaf Lie.)

Q. What made this thought pass through your mind, that it might [142—22] be a fog-whistle from the land?

A. Because it sounded so far away.

Q. What did you do after you heard the first whistle?

A. I commenced to time it—but not the second whistle. I commenced to time it about the third whistle; I should say I heard the third whistle before I commenced to time it.

Q. Did you time it alone?

A. No, sir; the third officer timed it.

Q. What was the result of this timing?

A. I got 56 or 57 seconds, the interval, but it blew pretty regular five seconds; but the third officer got a second or two more.

Q. Why did you time these whistles?

A. As I have stated before it just came into my mind that it was one of the fog-horns of Golden Gate.

Q. Do you time steamers' whistles when you hear them in a fog and when you know that they are steamers' whistles?

A. No, sir; we do not. It is not necessary to do that.

Q. Well, ask you if you do it.

A. We do not do it.

Q. You do not? A. No, sir.

Q. When you had finished timing this whistle ahead of you, did you come to any conclusion as to what it was? A. Yes, sir.

(Testimony of Captain Olaf Lie.)

Q. What was that conclusion?

A. I came to the conclusion that it was an approaching steamer.

Q. What did you do then? I withdraw that question. What speed were your engines making at that time, when you came to the conclusion that it was an approaching steamer? A. Slow.

Q. What was the speed of your engines from 3 to 3:05? A. Half speed.

Q. When did you put them slow? A. 3:05.

Q. Why did you change the speed of your engines from half speed to slow? [143—23]

A. Because I considered that six knots was not moderate enough under the circumstances.

Q. What did you consider with reference to slow?

A. Well, I would say that is a moderate speed in this fog.

Q. After the first whistle was heard was there a change in the bearing of those whistles?

A. A little bit, not much; just a little bit on the port bow.

Q. Why didn't you stop your engines when you heard the first whistle of the "Beaver?"

A. Well, because the sound was located as good as could be located in a fog and showed absolutely no danger of a collision.

Q. Are you familiar with the rule which requires a steamer to stop in a fog?

Mr. DENMAN.—Do not state the rule.

Mr. McCLANAHAN.—Q. Answer the question.

Mr. DENMAN.—I object to your putting the

(Testimony of Captain Olaf Lie.)

question in a suggestive way.

A. Yes, sir.

Mr. McCLANAHAN.—Q. Are you familiar with the rule which requires a vessel to stop in a fog?

A. Yes.

Mr. DENMAN.—I object to that as continuing in the same direction.

Mr. McCLANAHAN.—Q. Has that rule been adopted by the Norwegian Government?

Mr. DENMAN.—I object to that as a leading question.

A. Yes, sir.

Mr. McCLANAHAN.—Q. Do you know when it was adopted?

A. No, I do not know exactly, but I think it was adopted in 1897. [144—24]

Q. Is that rule in Norwegian in the same words as in the English language?

Mr. DENMAN.—I object to that; the rules show on their face what they are; it is a matter of law.

Mr. McCLANAHAN.—Q. Do you know what it is in the English language, Captain? A. Yes, sir—

Mr. DENMAN.—Wait a minute.

Mr. McCLANAHAN.—Do not answer Captain, until Mr. Denman has got on record his objection.

Mr. DENMAN.—I object to that, first because the rules show on their face, they are the best evidence of what their contents are; second, as calling for a conclusion of the witness and for his memory.

Mr. HENGSTLER.—I object to it on the ground that it does not appear that the captain knows what

(Testimony of Captain Olaf Lie.)

the rule is in the English language.

Mr. McCLANAHAN.—Q. Now Captain, pay no attention to the objections and answer the question. Read the question.

(The question read by the reporter.)

A. Yes. I think it has one word more in our rule—I mean the translation of the rule.

Mr. DENMAN.—Have you a copy of the rule here?

Mr. McCLANAHAN.—I will get to that, Mr. Denman, if you will wait a minute. Do not get excited over it.

Mr. DENMAN.—I am not excited at all, but your method of examination is entirely improper; you are taking advantage of the absence of the court to rule on questions to put questions that I consider are not proper, and I intend to break in and make [145—25] such objections as I can to protect my interests.

Mr. McCLANAHAN.—Q. What is this word which you say is in the Norwegian rule that does not appear in the English rule?

Mr. DENMAN.—The same objection.

A. You want it in Norwegian?

Mr. McCLANAHAN.—Q. What is the word, Captain.

Mr. DENMAN.—I make the same objection.

A. Our rule has the word "sikkerhed."

Mr. McCLANAHAN.—Q. What does that word mean?

A. That means that—

Mr. DENMAN.—The same objection.

(Testimony of Captain Olaf Lie.)

A. Surely or exactly.

Mr. McCLANAHAN.—Q. Now, where does that word appear in the Norwegian rule?

Mr. DENMAN.—I object to that on the ground, first, that the rule will show on its face; the rule is not in evidence; and secondly, it calls for the conclusion of the witness, and a matter of law.

A. In the second part of the rule.

Mr. HENGSTLER.—I make the further objection that it is not the best evidence.

Mr. McCLANAHAN.—Q. Give the sentence that it is in.

Mr. DENMAN.—I object to the question because it calls for a part of the rule and not the whole.

A. That is to say, if the position is not surely ascertained.

Mr. McCLANAHAN.—Q. Do you know whether that word "surely" is in the English rule, or not?

A. It is not in the English rule, no, sir. [146—26]

Q. It is not in the English rule? A. No, sir.

Q. With that difference then the two rules are alike?

Mr. DENMAN.—I object to the question as calling for the conclusion of the witness— A. Alike.

Mr. DENMAN.—Wait until I get my objection in, Captain. I object to it as calling for the conclusion of the witness, not being the best evidence as to the rules, and as being hearsay.

A. Alike.

Mr. McCLANAHAN.—Q. Captain, when did you

(Testimony of Captain Olaf Lie.)

first know of this rule requiring the stopping of a vessel's engines in a fog?

A. I learned that at the same time as I learned all the rules of the road, passing as mate.

Q. What was your course of study and examination when you passed as mate? What did it include?

A. That included all kinds of navigation, and also the rules of the road.

Q. Anything else? A. And machinery.

Mr. PAGE.—Did the witness say when he passed as mate?

Mr. McCLANAHAN.—Yes.

Q. What was the date you passed as mate?

A. The 23d of April, 1897—no, I am wrong; I got it mixed. It is 1898. I commenced in 1897.

Q. That is, you commenced to study in 1897.

A. Yes. The date is the 23d of April, 1898.

Q. Did you have anything to do with this rule when you were an instructor in the nautical school?

A. No, I did not have anything to do with it.

Q. I meant to have asked you another question there. You say that [147—27] your course in the nautical school, when taking the examination for first officer, included machinery. What did you mean by that.

A. That is to know an engine of a steamer, find out her horse-power, the speed of a vessel, the normal pitch of the wheel, and so on.

Q. That you took up when you were studying for first officer? A. Yes, sir.

(Testimony of Captain Olaf Lie.)

Q. Is this stopping rule numbered the same in the Norwegian rules as it is in the English?

A. Yes, sir.

Q. What is the number? A. Paragraph 16.

Q. Did you have a copy of the article 16 on the "Selja" at the time of the collision?

A. In Norwegian; just the Norwegian copy.

Q. A Norwegian copy? A. Yes, sir.

Q. What became of that copy, Captain?

A. It went down with the ship.

Q. Did you save any papers or data from the collision? A. Nothing at all, no.

Q. You lost everything, did you? A. Yes, sir.

Q. Have you seen a copy, a Norwegian copy of article 16 since you came ashore? A. No, sir.

Q. Is there a Norwegian copy of article 16 in the city, to your knowledge?

A. The Consul might have one.

Q. He might have one?

A. He might have one.

Q. But you have not seen one? A. No, sir.

Q. Captain, during your continuance as master of the "Selja" did you in the routine of your duties ever have to consider article 16?

A. Yes, sir. [148—28]

Q. Will you tell in what respect?

A. It was my habit when I went to rest and whenever I expected fog, I always in my night orders—I had a night order book—wrote, and every officer had to sign it before he went on watch, and in that night order book I just put in that if they heard a

(Testimony of Captain Olaf Lie.)
whistle forward they should stop the engines and call me.

Q. You say you had a night order book?

A. Yes, sir.

Q. Is that something that is always kept by a master?

A. No, not always, but I had a habit of keeping it.

Q. What was the purpose of this night order book?

A. Because they could not go back on the orders—the officer could not say they have not got the orders.

Q. What did it contain besides this reference to article 16, as a rule?

A. The course to be steered, and the rules which always is to be kept on board of a vessel, to be on the bridge, and so on, and keep a good lookout.

Q. Captain, why did you stop your engines on the night preceding the collision when you heard that first whistle of the steamer?

A. Because I did not know, I could not locate it—I did not locate it, I did not know where she was.

Q. Why did you stop your engines at 3:10 P. M., November 22d?

A. I only call that good seamanship to do so. I had then not only located the ship carefully, but I had also ascertained her course as near as it could be, and I stopped the engines just because it was good seamanship to do so.

Q. Did you stop the engines at 3:10 because of

(Testimony of Captain Olaf Lie.)

article 16? A. No, sir.

Q. With reference to the succeeding whistles after the first whistle heard from the "Beaver," did they vary your judgment as to her position? [149—29]

A. No, sir, nothing.

Q. Did those succeeding whistles have any influence on your judgment at all?

A. No, sir, nothing, except what I said, it was just a little on the port bow, and that didn't weaken it at all.

Q. Did the second whistle of the "Beaver" vary your judgment as to the bearing and distance?

A. No, sir.

Q. Captain, if you had stopped your vessel on hearing the first whistle could you have been assisted thereby in any degree in more accurately judging the distance and bearing of the "Beaver"?

A. No, sir.

Q. Why not?

A. Because I heard it as good as it could be located in a fog at that time, and there was no local noises on my vessel.

Q. Were there any local noises off your vessel?

A. No, sir, nothing; there was nothing that could help me by stopping the engine at that time to locate that whistle.

Q. The sea was in what condition at that time?

A. It was calm with a westerly swell; as a matter of fact, I could hear the sea gulls flap over the bow when we came along; there was a lot of sea gulls hanging around the ship and I could hear them when

(Testimony of Captain Olaf Lie.)

they lifted from the water, it was so quiet.

Q. When the sea gulls arose from the water?

A. Yes.

Q. You could hear what?

A. You could hear the flaps of the wings.

Q. How long was it after 3:10 before you sighted the "Beaver"? A. Five minutes.

Q. How were the engines of the "Selja" going from 3:10 to 3:15? A. Stopped.

Q. When did you stop them? A. 3:10.

Q. What was the speed of the "Selja" at 3:10, when you stopped [150—30] the engine?

A. Three knots.

Q. How long had you been going at three knots?

A. They were slowed down at 3:05 to slow speed, which is three knots, and kept five minutes.

Q. So that they had been going at three knots for five minutes?

Mr. DENMAN.—I object to that as leading and suggestive.

Mr. McCLANAHAN.—He said they were slowed down to slow speed at 3:05, which is three knots, and were kept at that for five minutes. He said he stopped them at 3:10.

Mr. DENMAN.—The engines were going at three knots; very well.

A. Yes, sir.

Mr. McCLANAHAN.—Q. What was the distance separating the two vessels when they first came in sight at 3:15? A. About 900 feet.

Q. What was the "Selja's" course at that time?

(Testimony of Captain Olaf Lie.)

A. Her course was about three-quarters of a point or a point to the southward or south of 65 east.

Q. How do you account for that change in her course?

A. Well, she commenced to swing the last minute or so before 3:15; she commenced to swing to starboard.

Q. What was the cause of that swinging?

A. Well, I suppose because she commenced to lose her headway.

Q. What was the bearing of the "Beaver" when you first saw her?

A. About two points on our port bow.

Q. Did you know her course at that time?

A. No, sir.

Q. When did you learn her course?

A. A few seconds afterwards.

Q. When the "Beaver" was first sighted at 3:15, was the "Selja" making any headway through the water at that time? [151—31]

A. No, sir. I just think she was practically at rest; in my opinion she was practically at rest at that time.

Q. Had you been paying any attention to the question of the "Selja's" headway? A. Yes, sir.

Q. What was it?

A. Occasionally stepping a few feet towards the side to look over; it was just a few feet from the telegraph to look over the side at the water. I told the third officer to hold on till I told him to blow three whistles. The whistle I heard about 3:14, I did not

(Testimony of Captain Olaf Lie.)

look exactly at the time—

Q. What whistle was that?

A. The whistle of the "Beaver"—I thought to tell him to blow two whistles—I didn't tell him—in answer to his next whistle—I thought to tell the third officer to blow two whistles, in answer to the "Beaver's" next whistle.

Q. What time would that whistle have blown?

A. About 3:15 it should have blown.

Q. Did you tell your third officer to blow two whistles? A. No, sir.

Q. Why not?

A. Because the "Beaver" loomed in sight, and I saw her blow three whistles.

Q. You saw the "Beaver" blow three whistles?

A. I saw the "Beaver" blow three whistles.

Q. What do you mean by saying you saw the "Beaver" blow three whistles?

A. I saw the steam come out of his whistle and I heard it, of course, at the same time.

Q. How soon after she had loomed in sight did you see the steam escaping from his whistle?

A. About the same time; she loomed in sight and the three whistles was almost the same time. [152—32]

Q. Three whistles at almost at the same time.

A. Yes.

Q. What did you do when you saw and heard the three whistles from the "Beaver"?

A. I told the third officer to blow three whistles

(Testimony of Captain Olaf Lie.)

and I rang full speed astern on my engine at the same time.

Q. When you discovered the course that the "Beaver" was going, did you notice whether she was coming fast or slow?

A. She was coming fast.

Q. How do you know that?

A. I saw the way she cut the water.

Q. Captain, what was the apparent angle of approach of the two vessels, measured from their center lines—what was the apparent angle of approach?

A. Well, I could not say exactly, but—it is very hard to say, because I did not look exactly at the lines, but I should say the angle would have been 70 or 89 degrees—that is hard to say.

Q. What would be your best judgment—70 or 80 degrees? A. Yes.

Mr. DENMAN.—When you first saw it?

A. No, sir, when she struck.

Mr. McCLANAHAN.—I am talking about the angle of approach as she came toward you.

A. That angle increased; that angle was increasing steadily as my vessel swung, and I saw the "Beaver's" sides. I was watching the "Beaver" carefully then and I thought probably she would pass wide of me; her starboard side was broadening all the time as I was watching her.

Q. So that the angle of approach you have approximated as 70 or 80 degrees was the angle of impact? A. Yes, the time she struck.

(Testimony of Captain Olaf Lie.)

Q. About the time she struck? A. Yes, sir.

Q. Where was the bridge located with reference to where she struck, forward or aft?

A. Aft. [153—33]

Q. It was aft. A. Yes.

Q. You say this angle of impact then had broadened from the angle when she first was seen approaching you? A. Yes, greatly.

Q. Did the "Beaver's" course change as she approached you?

A. It did not seem to change to me because the side was broadening and we were moving astern at that time.

Q. Where did the "Beaver" strike the "Selja"?

A. She struck, I should say, about 6 or 8 feet abaft of the bulkhead between 1 and 2; but she struck aft of the backstay of the rigging.

Mr. DENMAN.—Q. Of the foremast?

A. Of the foremast, yes.

Mr. McCLANAHAN.—Q. Between No. 1 and No. 2 what? A. No. 1 and 2 holds.

Q. How far is that from the stem approximately?

A. Well, I could not say exactly; it is hard to say; but it must be between 70 and 90 feet, I should say. I really don't remember how long that forecastle was—about 90 feet perhaps.

Q. At the time the "Beaver" struck the "Selja" was she swinging to port or to starboard—had the "Beaver" swung to port or to starboard?

A. She did not seem to swing at all to me.

Q. What would have been the angle of impact,

(Testimony of Captain Olaf Lie.)

Captain, if both vessels were on their original courses at the time of impact, measured from the center lines of each vessel?

A. Well, take the course that Captain Kidsten said; he said he was steering north 86 west magnetic, and we were steering south 65 east, which is an angle of 21 degrees.

Q. You say that before sighting the "Beaver" there was some change in your heading. I have forgotten just what you said. What was it?

A. Well, she swung—her bow swung a little to starboard; it [154—34] commenced to swing to starboard, and she had swung about a point.

Q. Her bow had swung to starboard?

A. Yes, her bow had swung to starboard about a point.

Q. At the moment of impact had the "Selja" swung either way?

A. Oh, yes, her stern swung to port, you see, at the same time as she was going astern; she swung, following the propeller.

Q. And her bow would swing to starboard?

A. Yes, sir.

Q. What was the cause of that swinging?

A. The momentum of the propeller; the propeller there.

Q. The propeller did it. A. Yes.

Q. In what way was the propeller going?

A. Going full speed astern.

Q. How does the "Selja" swing under those circumstances? A. Her stern swings to port.

(Testimony of Captain Olaf Lie.)

Q. And her bow would swing to starboard?

A. Yes, sir.

Q. Captain, do you know how long a time elapsed from the moment of impact until the "Beaver" had backed clear from the hole in the "Selja"?

A. Well, I could not say that. It was a matter of a few seconds, I should say. I did not time that at all, of course not. I had something else to look after so I did not time that.

Q. At the moment of impact what had been the effect on the "Selja" of reversing her engines full speed astern at 3:15?

A. She had gathered sternway, but she swung to starboard—her bow was swinging to starboard.

Q. Did the "Selja" continue to move astern after the impact? A. Yes, she did.

Q. How do you know that?

A. Well, the only way I know it [155—35] is when the boats were lowered from their regular places the bow of the boats was towards the bow of the "Selja," but afterwards they swung around and pointed their bow towards the stern of the "Selja."

Q. Let us get that clear. As I understand your answer, it is, that when the boats were first lowered into the water their bows pointed the same way that the bow of the "Selja" did.

A. Yes, sir.

Q. But subsequently and after the impact their bows were pointed towards the stern of the "Selja"?

A. Yes, sir.

(Testimony of Captain Olaf Lie.)

Q. How do you account for that change in the boats?

A. The "Selja" was going astern; that is the only way, and nothing else.

Q. Could it be accounted for in any other way?

A. No, sir.

Q. How long, Captain, was it between the sighting of the "Beaver" and the time of the impact?

A. About a minute, I should say—about a minute.

Q. How long did the "Selja" remain afloat?

A. 15 minutes after the impact.

Q. Captain, do you know what maneuvers were made by the "Beaver" after she backed out from the hole in the "Selja's" side?

A. I don't know the maneuvers of the engine, but I know the way she swung.

Q. Tell us how she swung then.

A. When she backed out she swung pretty near parallel with us, to the "Selja," stern to stern.

Q. And bow to bow? A. And bow to bow.

Q. What distance separated you at that time, when she had come to rest in that position? [156—36]

A. I should say about a ship's length and a little more.

Q. Would it have been possible for the "Beaver" to have made that swing by which she was placed eventually bow to bow and stern to stern with the "Selja" if at the moment of impact she was swinging

(Testimony of Captain Olaf Lie.)

rapidly to starboard? A. I do not think so.

Q. Captain, at the time of the collision were you hearing the Point Reyes siren or had you lost that sound?

A. I heard it right up to the collision.

Q. Do you know the bearing and distance of the Point Reyes siren from the "Selja" at that time, 3:15?

A. Yes, I know that. I did not know it then exactly but I have plotted that out after I came ashore.

Mr. DENMAN.—I object to that on the ground it calls for a guess of the witness and not actual knowledge at the time.

Mr. McCLANAHAN.—Q. What was the bearing?

A. The bearing was south southeast from Point Reyes, or north northwest from the "Selja" two and a half miles.

Q. What was the bearing and distance at the time of the collision?

A. That is the time of the collision.

Mr. PAGE.—The time of the collision was 3:15.

Mr. McCLANAHAN.—That is what he said.

Q. I will ask you the further question, what was the bearing and distance at 3:15?

A. Well, it might be 100 feet shorter; that is all. It could not be miles. You see she backed that 100 feet nearer the point.

Q. So you would say the distance and bearing was practically the same?

A. It could not alter the bearing in one minute going [157—37] astern; she was going northward.

(Testimony of Captain Olaf Lie.)

Q. Answer the question: Was it practically the same? A. Yes, sir.

Mr. HENGSLTER.—100 feet nearer to Point Reyes.

Mr. McCLANAHAN.—He said it might be.

The WITNESS.—About that; I would not say for certain.

Mr. McCLANAHAN.—Q. Captain, can you find the speed of a vessel?

A. Yes, I can find the speed.

Q. What data have you got to have?

A. Well, I can find it with the log if I have not anything else.

Q. Suppose you have not got the log; suppose you have not the distance travelled between any two points, can you find the speed?

A. Well, I can find the speed if you give me the revolutions of the engines and the pitch of the propeller and her ordinary slip.

Q. Can you find the slip of a propeller?

A. Yes, it can be found also.

Q. What is the data you must have in order to do that?

A. The revolutions of the engine, the pitch of the propeller and the distance logged in a certain time.

Q. Where did you learn how to do this, find the speed of a vessel and find her slip?

A. At school,—nautical school.

Q. Did you learn that during your examination for first officer's papers? A. Yes, sir.

Q. What was your course in the Government Nau-

(Testimony of Captain Olaf Lie.)

tical School in Norway when you took your examination for master—what courses did you take?

A. It is seven principal courses, which first contains navigation, and that is in details you might as well say; then they have machinery, the same as in passing for mate, but more; then we have business and maritime law; then we have [158—38] spelling and reading of the Norwegian language, and also the English, and then we have meteorology.

Q. What does that include,—meteorology?

A. That includes weather conditions, find out and know the weather, reading the barometer and thermometer, and it also includes routes to take going across the ocean; and then we have electricity.

Q. That is all. A. That is seven, yes.

Q. Captain, did you attend the hearing in this matter before the United States Inspectors at this port?

A. Yes, sir.

Q. When was that?

A. The 25th of November, 1910.

Q. You were present at that, were you?

A. I was present the first day.

Q. The 25th of November?

A. Yes, the 25th of November.

Q. Did you hear Captain Kidsten testify at that time? A. Yes, sir.

Q. Was he under oath? A. Yes, sir.

Q. Did he testify with reference to when the "Beaver" passed Meiggs Wharf? A. Yes, sir.

Q. What was the hour? A. 1:11 P. M.

Q. Did he testify when she passed the North

(Testimony of Captain Olaf Lie.)

Heads? A. Yes, sir.

Q. What was the hour? A. 1:37 P. M.

Mr. DENMAN.—I object to this.

Mr. McCLANAHAN.—Q. Did he testify as to when the "Beaver" passed Red Buoy No. 2?

A. Yes, sir.

Mr. DENMAN.—What is the purpose of this testimony?

Mr. McCLANAHAN.—I am laying the foundation for some hypothetical questions.

Mr. DENMAN.—I object to the introduction of the evidence on [159—39] the ground that the evidence as to what Captain Kidsten testified to is immaterial, irrelevant and incompetent, is hearsay, and it is understood that the same objection is made to each one of these questions.

Mr. McCLANAHAN.—Yes.

Q. Did he testify as to the course of the "Beaver" after she left Red Buoy No. 2.

Mr. HENGSTLER.—He has not put in the time.

Mr. McCLANAHAN.—Q. When did the "Beaver," according to the testimony of Captain Kidsten pass Red Buoy No. 2? A. At 1:45 P. M.

Q. Did Captain Kidsten testify with reference to the course of the "Beaver" after leaving Red Buoy No. 2? A. Yes, sir.

Q. What was the course he testified to?

A. He said he steered south 33 west on the bridge compass up to Ducksberry Reef, and that course he said was magnetic south 86.

Q. South or north?

(Testimony of Captain Olaf Lie.)

A. South 86; this is all to Ducksberry Reef; and from Ducksberry Reef he said he steered north 86 west magnetic.

Q. Did he testify with reference to the draft of the "Beaver" on leaving San Francisco on November 22d? A. Yes, sir.

Q. What did he give the draught?

A. 14—3 forward; 18—6 aft.

Q. 14—3 forward? A. Yes; 18—6 aft.

Q. Did he testify as to the revolutions of the engines of the "Beaver" on her course after leaving Red Buoy No. 2?

A. No. He said that full speed was from 83 to 85 revolutions; that is all he said.

Q. Did he testify with reference to the maneuvers of the "Beaver" just before and after sighting the "Selja"? [160—40]

A. Yes—that was in his statement written to one of the inspectors. He said—

Q. That was his statement written to one of the inspectors?

A. Yes, under oath, in his statement written to them regarding the accident.

Mr. DENMAN.—Was this statement in writing, under oath? A. Yes, sir.

Mr. DENMAN.—I object to any evidence as to the statement, the writing itself being the best evidence.

Mr. McCLANAHAN.—We ask you to produce the writing.

Mr. DENMAN.—Ask us to produce the writing? We have not got the custody of the writing.

(Testimony of Captain Olaf Lie.)

Mr. McCLANAHAN.—You decline to produce the writing?

Mr. DENMAN.—I have never had the writing. It is in the possession of the United States Inspectors, and I can't produce it.

Mr. McCLANAHAN.—Then I ask you to produce a copy of it.

Mr. DENMAN.—There is no evidence we have a copy.

Mr. McCLANAHAN.—Have you a copy?

Mr. DENMAN.—Find out.

Mr. McCLANAHAN.—I am asking you.

Mr. DENMAN.—The original of this letter is in the possession of the United States Inspectors in the City and County of San Francisco and within reach of subpoena of the libelant.

Mr. McCLANAHAN.—Q. What did Captain Kidsten say as to his maneuvers in this sworn report?

Mr. DENMAN.—I object on the ground, first, that it is hearsay; second, that the writing is the best evidence; third as immaterial, irrelevant and incompetent. [161—41]

A. The captain said that he had stepped off the bridge—

Mr. DENMAN.—I further protest against the manifest impropriety of getting in evidence which counsel must know is not proper at this time.

A. (Contg.) —for a minute, and when he returned to the bridge the second officer reported the whistle one point on his starboard bow. He then ordered his wheel to starboard, thinking that he was overtaking

(Testimony of Captain Olaf Lie.)

a vessel or a vessel bound down North Channel; his automatic whistle blew just then and as it stopped he heard another whistle on the same bearing, although the "Beaver" had swung half a point to port; then he put his engine full speed astern and his wheel hard-a-port, as he made up his mind it was a steamer crossing his bow, although he has not seen her.

Mr. DENMAN.—Q. Did he say "although he has not seen her"?

A. Well, he said he has not seen the vessel.

Q. Did he say in the letter "although he has not seen her"?

A. Well, I don't know exactly the expression, but he said he has not seen the vessel.

Q. You do not pretend to be giving the exact words of the captain, do you?

A. No. I am just telling the meaning. I don't know, there may be other words in it. That is his meaning.

Mr. DENMAN.—I move to strike out all the testimony regarding the contents of the captain's letter on the grounds expressed in the objection to giving the testimony.

Mr. McCLANAHAN.—Q. Captain, do you know the distance between Red Buoy No. 2 and the North Heads? A. Yes, sir.

Q. What is it? A. Two nautical miles.

Q. Two nautical miles.

A. That is to say, that is not the [162—42] exact distance from North Heads to Red Buoy No. 2,

(Testimony of Captain Olaf Lie.)

but when a vessel passes North Heads on the course out to Golden Gate.

Q. Captain, if the "Beaver" on her course out through the Golden Gate passes the North Heads at 1:37 P. M., and Red Buoy No. 2 at 1:45 P. M., without changing the revolutions of her engines and proceeds under the same conditions until 3:10 P. M., how far would she have traveled and at what rate of speed from 1:37 to 3:10 P. M.?

A. Her speed was 15 knots, and the distance run from 1:37 to 3:10 P. M. would be 23¼ knots.

Q. If the "Beaver" traveled 23¼ knots from 1:37 P. M. to 3:10 P. M., and her speed was 15 knots during that time, and assuming that the revolutions of her engines were 84 during that time, and the pitch of her propeller 22 feet 3 inches, what must have been the slip of her propeller?

Q. Did you say 84 revolutions?

Q. 84 revolutions. A. 18.67 per cent.

Q. Under the same statement of facts as just given in that last question, with the exception that we will assume that her engines were making 77 revolutions instead of 84, what must have been the slip of her propeller? A. 11.28 per cent.

Q. In each of the answers referring to the slip, you mean per cent do you not? A. Yes, sir.

Q. If the "Beaver" in passing out through the Golden Gate passes the North Heads at 1:37 P. M., Red Buoy No. 2 at 1:45 P. M., without changing the revolutions of her engines, and under the same conditions continues her speed for a total distance of

(Testimony of Captain Olaf Lie.)

23¼ knots, measured from the North Heads, would it have been [163—43] possible that her engines were making only 77 revolutions during the running of the 23¼ knots, if her slip was more than 12 per cent?

A. No, she could not do it if the slip was more.

Q. Would it be possible under the conditions of the last question that her speed was only 11 knots?

A. Not with 77 revolutions.

Q. If the "Beaver" in passing out through the Golden Gate passes the North Heads at 1:37 P. M. and Red Buoy No. 2 at 1:45 P. M., without a change in the revolutions of her engines, and under the same conditions continues for a total distance of 23¼ knots, measured from the North Heads, would it be possible that her engines during the run were making 77 revolutions without a slip of 25 per cent?

A. No, sir.

Q. If the "Beaver's speed is 15 knots per hour, with 84 revolutions, and the slip of her propeller is 18.67 per cent, what would be the speed of the vessel at the end of five minutes after the revolutions had been reduced to 76? A. 13.57.

Q. 13.57 what? A. Knots.

Q. If the "Beaver's" speed is 15 knots with 84 revolutions, and her slip is 18.67 per cent, what would be the vessel's speed if the revolutions are reduced to 77? A. 13.75.

Q. Knots? A. Knots.

Q. If the "Beaver's" speed at 77 revolutions is 13.75 knots, what would be her speed at the end of

(Testimony of Captain Olaf Lie.)

five minutes if the revolutions are reduced from 77 to 76? A. 13.57—the same as the other.

Q. If the "Beaver's" engines are making 77 revolutions per minute, would it be at all practicable to change them to 76? [164—44]

A. No, I do not think so. He might do it in a quarter of an hour.

Q. He might do it in a quarter of an hour?

A. Yes, sir.

Q. To what extent would a change of one revolution, from 77 to 76, affect the "Beaver's" speed in an hour, with the slip of 18.67 per cent?

A. About 0.18.

Q. Knots. A. Knots per hour.

Q. If the "Beaver" is said to have made 17.6 knots on her trial trip with 86 revolutions, what would have been the slip of her propeller?

A. 6.8 per cent.

Q. What would have been her speed with 77 revolutions on the trial trip? A. 15.76.

Q. What? A. Knots.

Q. Per hour? A. Per hour.

Q. If the slip of her propeller was 6.8 per cent, making 17.6 knots with 86 revolutions, what would the slip have to be if at 77 revolutions the vessel was only making 11 knots? A. 35 per cent.

Q. Considering that the "Beaver" had been docked three months and 18 days, or four months, say, before November 22, 1910, and at that time had had her bottom cleaned and painted, and assuming that on November 22d, 1910, with 77 revolutions, the vessel

(Testimony of Captain Olaf Lie.)

was only making 11 knots, what must have been the sea conditions on that day to account for the difference in the slip when the speed under trial trip conditions would be 15.76 knots at 77 revolutions, and on November 22d, 1910, was only 11 knots at 77 revolutions?

A. The only thing I can say is, it must have been a hurricane or [165—45] tremendously bad weather.

Q. Could such a percentage of difference in the slip be possibly accounted for by a high, long, rolling swell, in a calm?

A. No, sir, not with a ship like the "Beaver."

Q. Assuming that under trial trip conditions, with 86 revolutions the "Beaver" made 17.6 knots per hour, would it be possible that her speed was only 11 knots if the revolutions were 77 and the slip 25 per cent? A. No, sir—absolutely not.

Q. What would be the difference in the speed of the "Beaver" between 77 and 76 revolutions on a 25 per cent slip? A. 0.165 knots per hour.

Q. What would that difference amount to in feet, at the end of five minutes?

A. 83 feet and 6 inches.

Q. What would the "Beaver's" speed be at 77 revolutions and a 25 per cent slip? A. 12.68 knots.

Q. What would it be on the same revolutions with 20 per cent slip? A. 12.53 knots.

Q. I wish you would figure that out, Captain.

A. Well, ask me again.

Q. You have said 12.53 knots. What would be the

(Testimony of Captain Olaf Lie.)

speed on the same revolutions, 77, with a 20 per cent slip. A. 13.53.

Q. Not 12.53? A. No; 13.53.

Q. To what extent would a change of one revolution from 84 affect the "Beaver's" speed at the end of one hour, with a slip of 18.67 per cent.

A. I did not take the question.

Q. You cannot answer that question?

A. I can answer, I think so, but I would like to have it repeated. I did not follow it.

Q. To what extent would a change of one revolution from 84 affect [166—46] the "Beaver's" speed in one hour, with a slip of 18.67?

A. That would be the same as reducing it from 77 to 76: 0.18.

Q. If the "Selja's" speed was logged and found to be 6 knots on 40 revolutions of her engines, what would her slip be? A. 6.46 per cent.

Q. If the "Selja's" engines at 3 o'clock are making 40 revolutions and they remain at 40 revolutions until 3:05, when they are put at 20 revolutions, and they remain at 20 revolutions until 3:10, when they are stopped, and remain stopped until 3:15, what would be the distance traveled by the "Selja" from 3 to 3:15, with a slip of 6.46 per cent?

A. 6080 feet, or one knot.

Q. What would be the distance traveled by a vessel from Meiggs Wharf to the North Heads?

A. 5⅝ miles; that is from the foot of Powell Street.

Q. That is where Meiggs Wharf is?

(Testimony of Captain Olaf Lie.)

A. That is where it is reputed to be; from there to the North Heads is 5⅝ miles—knots, you must remember.

Q. Captain, on November 22d, 1910, when the "Beaver" was on her course from Meiggs Wharf to the North Heads, between the hours of 1:11 and 1:37, was there a tide? A. Yes, sir.

Q. Which way did it set?

A. In Golden Gate, flood tide.

Q. Assuming, Captain, that the point of collision was where you have placed it, and assuming also that the "Beaver" passed Red Buoy No. 2 at 1:45 o'clock P. M., what was the distance traveled by the "Beaver" from 3 to 3:05? A. 7600 feet. [167—47]

Q. And what was the distance traveled by the "Beaver" from 3:10 to 3:13½? A. 5250 feet.

Q. What was the distance traveled by the "Beaver" from 3:13½ to 3:15? A. 2250 feet.

Q. Assuming the point of collision to be as you have placed it, Captain, what was the distance separating the "Selja" from the "Beaver" at 3 o'clock? A. 4.83 knots.

Q. What was the distance separating them at 3:05 P. M.? A. 3.1 knots.

Q. What was the distance separating them at 3:10 P. M.? A. 1.4 knots.

Q. What was the distance separating them at 3:13½? A. 0.55 knots.

Mr. McCLANAHAN.—I will now offer this map of Drake's Bay, California, issued by the United States Government, the markings of which have

(Testimony of Captain Olaf Lie.)

been identified by the evidence of the witness, in evidence, and ask that it be marked Libelant's Exhibit 1.

(The map is marked Libelant's Exhibit 1.)

I will offer also a map issued by the United States Government entitled "The Pacific Coast from Point Pinos to Bodega Head," and ask to have it marked Libelant's Exhibit 2.

(The map is marked Libelant's Exhibit 2.)

I also offer in evidence a map of the San Francisco Entrance, issued by the United States Government, and ask that it be marked Libelant's Exhibit 3.

(The map is marked Libelant's Exhibit 3.)

Q. Referring, now, Captain, to Exhibit 1, just introduced in [168—48] evidence, I will ask you who placed these markings on this map here (pointing)? A. I did, sir.

Q. Showing the relative positions of the "Selja" and "Beaver"? A. Yes, sir.

Q. This is your name written down here on that, is it? A. Yes, sir.

Q. Did you place that there? A. Yes, sir.

Q. When was this map prepared by you with these markings on it?

A. This map was prepared about a week ago, but I have a map at home which I prepared just after the collision.

Q. Is it the same as this? A. The same as this.

Q. This is simply a copy of the other?

A. Yes, sir.

(Testimony of Captain Olaf Lie.)

Q. You prepared the other about a week after the collision?

A. I prepared it just after—I could not say exactly a week, but it was the first part of December.

Q. And it has on it the same markings?

A. Yes, the same markings.

Mr. HENGSTLER.—Q. The same figures?

A. The same figures.

Mr. DENMAN.—Q. Will you bring that here, Captain?

A. Yes, sir.

Mr. McCLANAHAN.—While I do not know whether it is proper to do so, I am going to offer in evidence the testimony already taken in the case of the case of Lie vs. the "Beaver." This is a consolidated proceeding, and that will bring into the case all the evidence heretofore taken.

Mr. HENGSTLER.—All these suits are consolidated, but this testimony applies to all the suits.

Mr. McCLANAHAN.—Yes. There will be no harm in making the offer. [169—49]

Q. Captain, if the "Beaver" traveled from North Heads to Red Buoy No. 2 in 8 minutes, what was her rate of speed? A. 15 knots.

Q. Per hour? A. Per hour.

Q. If the "Beaver" passed North Heads at 1:37 P. M., and assuming the point of collision as you have placed it, what would be her rate of speed in order to reach the point on her course of north 86 west magnetic marked on Libelant's Exhibit 1 as her position at 3:10 P. M. A. 15 knots.

(Testimony of Captain Olaf Lie.)

Q. Captain, did you hear the examination before the Inspectors, Captain Kidsten state while under oath the point of collision? A. Yes, sir.

Q. What was it?

Mr. DENMAN.—I object to it on the ground that it is hearsay and irrelevant, incompetent and immaterial.

A. He said Point Reyes bore northwest by west half west, 6 miles, and the South end northwest half north, 4 miles.

Mr. McCLANAHAN.—Q. Can you place on Libelant's Exhibit 1 the position of the collision as fixed by Captain Kidsten at that time? A. Yes, sir.

Q. Please do so—put the position in pencil.

A. There is where the two lines intersect; do you wish me to measure the distance?

Q. Wait a minute. You have drawn a circle where the two courses or bearings intersect?

A. Yes, sir.

Q. Will you please put your initials there opposite the same. A. Yes, sir. [170—50]

Q. Will you please verify by actual measurement the distance that Point Reyes whistle bore from that point of intersection—verify it now.

A. From what point to what point?

Q. See if this point of intersection as placed by you is now 6 miles from Point Reyes?

Mr. DENMAN.—Q. What is that scale?

A. That is three nautical miles.

Q. Three nautical miles on your compass?

A. Yes, sir.

(Testimony of Captain Olaf Lie.)

Mr. McCLANAHAN.—Q. You have drawn a circle now around the bearings which was 6 miles from Point Reyes. Will you please mark that 1.

A. Yes.

Q. Put a circle around that "1," Captain. Will you please put "2" opposite the point which bears 4 miles from the South end of Point Reyes.

A. Yes.

Q. Will you please mark the intersection of those two lines where you have your initials "3."

A. Yes.

Q. Now, Captain, if from the "Selja" at 3 o'clock the Point Reyes Siren bore due north magnetic by compass bearing, and assuming the point of collision to be as fixed by Captain Kidsten, what would be the distance the "Selja" would have to travel to reach it in 15 minutes—I mean by the point of collision the intersection of those two bearings.

A. I will measure it first.

Q. I want to know the distance the "Selja" would have to travel to reach it in 15 minutes. Please measure it on the map.

A. (After measuring.) That is about 5.6 miles distant.

Q. The distance is 5.6 miles. A. Yes. [171—51]

Q. That is the "Selja" would have to travel in order to reach that point from 3 o'clock that distance? A. Yes, sir.

Q. At what rate of speed, Captain, would the "Selja" have to travel in order to reach it?

(Testimony of Captain Olaf Lie.)

A. The rate of speed would be 22.4 knots per hour.

Q. Per hour? A. Yes, sir.

Q. What, as a matter of fact, was the distance traveled by the "Selja" from 3 to 3:15 P. M.?

A. One knot.

(An adjournment was here taken until Monday morning, June 12th, 1911, at 10 A. M.) [172—52]

Monday, June 12th, 1911.

OLAF LIE, direct examination resumed.

Mr. McCLANAHAN.—Q. Captain, I believe you said that the "Beaver's" whistle sounded for five seconds; when did you find that out?

A. I found that out. I timed it by my watch.

Q. Did the first whistle which you heard of the "Beaver" sound as the others did, with reference to its duration?

A. Yes, pretty near. I did not time the first one, but it sounded to me as long as the others.

Q. At what interval, with reference to the "Beaver's" whistle, after 3 o'clock, did the "Selja's" whistle blow?

A. Answered his whistle, just between his whistles.

Q. That is the "Beaver's" whistle was in answer to your whistle? A. Yes, sir.

Q. From 3 o'clock until when?

A. Until the collision.

Q. What kind of a whistle was the "Selja's" whistle? A. A good whistle, a very good one.

Q. Do you know whether that whistle was ever tested, or not?

(Testimony of Captain Olaf Lie.)

A. It was only tested by the Board of Trade while she was new, if it blew, if it sounded immediately when you pulled the string.

Q. How do you know that it was tested by the Board of Trade? A. I saw it.

Q. You were there when the test was made?

A. Yes, sir.

Q. What was the result of the test?

A. That it blew immediately when you pulled the string.

Q. I hand you a paper, Captain, which I would like to have you identify, in fact two sheets of paper. What are those sheets of [173—53] paper (handing)?

A. Representing bills for returning the Chinese crew and subsistence at the Immigration Station.

Q. Those represent the amounts paid by you for the return of the Chinese crew of the "Selja" to China from this port, and also their keep while here waiting to be transported? A. Yes, sir.

Q. These bills are paid by you, were they?

A. They were paid by me on a draft on my owner.

Q. Presented to you by the—

A. Pacific Mail Steamship Company.

Q. The Pacific Mail Steamship Company?

A. Yes, sir.

Q. Those bills are fair, are they? The amount charged is fair?

A. Well, I should say so, that the amount there is—I drew on my owner for the amount that is written there, that is all I know.

(Testimony of Captain Olaf Lie.)

Mr. McCLANAHAN.—We offer these in evidence, one bill for $1,771.20, and one for $160.38, and ask that they be marked as libelant's exhibits.

(The papers are marked respectfully Libelant's Exhibits 4 and 5.)

Q. I hand you a paper and ask you if you can identify that? A. Yes, sir.

Q. What is it? A. Engine-room stores.

Q. Whose engine-room stores?

A. The "Selja's" engine-room stores, lost in the collision.

Q. Were those stores on board at the time of the collision? A. Yes, sir.

Q. That is a fair and truthful statement of the stores that were lost and their value at the time of the loss? A. Yes, sir. [174—54]

Q. On this collision. A. Yes, sir.

Mr. McCLANAHAN.—I offer that in evidence. That will be marked Libelant's Exhibit 6.

(The paper is marked Libelant's Exhibit 6.)

Q. This last exhibit 6 is signed with your name is it? A. Yes, sir.

Q. That is your signature? A. Yes, sir.

Q. I hand you this further paper and ask you if you can identify that (handing)? A. Yes, sir.

Q. What is that? A. Deck stores lost.

Q. Lost where?

A. In the collision with the "Beaver"—deck stores belonging to the "Selja."

Q. Is that a fair and truthful statement of the deck stores that were lost and their value at the

(Testimony of Captain Olaf Lie.)

time of the loss? A. Yes, sir.

Mr. McCLANAHAN.—I offer that in evidence as Libelant's Exhibit 7.

(The paper is marked Libelant's Exhibit 7.)

Q. You have also signed exhibit 7 with your name? A. Yes, sir.

Q. I hand you this paper and ask you what that is (handing).

A. That is provisions for the Chinese crew, lost in the collision with the "Beaver."

Q. What do you mean by provisions for the Chinese crew. What do you mean by that expression?

A. It is their grub, to keep them till we came back to China.

Q. That was on board at the time.

A. Yes, sir.

Q. And belonged to the "Selja?" A. Yes, sir.

Q. Is this statement here a fair and truthful statement of the provisions that were on board, which you have called the Chinese [175—55] crew's provisions, and their value. A. Yes, sir.

Q. The value stated in United States gold coin is $261.45. A. Yes, sir.

Q. That is correct, is it not? A. Yes, sir.

Q. And that is your signature? A. Yes, sir.

Mr. McCLANAHAN.—I offer this in evidence as exhibit 8.

(The paper is marked Libelant's Exhibit 8.)

Q. Captain, I hand you this paper and ask you what it is?

(Testimony of Captain Olaf Lie.)

A. It is spare gear and outfit on board the S. S. "Selja" when lost at Point Reyes.

Q. When lost what?

A. When lost off Point Reyes, in the collision with the "Beaver."

Q. Is that a truthful and fair statement of the spare gear and outfit on board the "Selja" that was lost at that time? A. Yes, sir.

Q. And those values there are the reasonable values of those articles at the time of the loss?

A. Yes, sir.

Q. Captain, were these items, or any of them, included in the contract price of the "Selja"?

A. No, sir.

Q. Those are in addition to the usual gear and outfit that go on a ship when she is built?

A. Yes, sir.

Q. That is your signature on this paper?

A. Yes, sir.

Mr. McCLANAHAN.—I offer this in evidence as Libelant's Exhibit 9.

(The paper is marked as Libelant's Exhibit 9.)

Q. I hand you, Captain, a further bundle of papers, five of them, in all, and ask you what they are (handing)?

A. They are personal effects lost by myself, wife and two children [176—56] in the collision with the "Beaver."

Q. Is that a fair and truthful statement of those personal effects? A. Yes, sir.

Q. And they were lost at that time?

(Testimony of Captain Olaf Lie.)

A. Yes, sir.

Q. And the value placed opposite these items are the reasonable value of the goods at the time they were lost? A. Yes, sir.

Q. And it aggregates $1,973.25, as shown by the first page? A. Yes, sir.

Q. That is your signature, is it? A. Yes, sir.

Mr. McCLANAHAN.—I offer that as exhibit 10.

(The paper is marked Libelant's Exhibit 10.)

Q. Captain, did you pay anything in the matter of the taking of the maritime declaration before the Swedish Consul? A. Norwegian Consul?

Q. Yes. A. Yes.

Q. How much did you pay? A. $43.

Q. Does that bill represent what you paid (handing)? A. Yes, sir.

Q. And that was caused through the collision, the necessity for that? A. Yes, sir.

Mr. McCLANAHAN.—I offer that in evidence as Exhibit 11.

(The paper is marked Libelant's Exhibit 11.)

Cross-examination.

Mr. PAGE.—Q. Let me ask you a question about that last exhibit 11, the maritime declaration. Was that the protestor was it the testimony that was taken by the Consul in order to send forward an account of how the collision occurred? A. Yes, sir.

Q. It was not the protest—there was a protest, was there not? [177—57]

A. It was a protest, and then this is the ordinary

(Testimony of Captain Olaf Lie.)

maritime declaration taken before the Norwegian Consul.

Q. That is the Consul examined all the witnesses who were on board your ship? A. Yes, sir.

Q. And took their statements and sent them on to the government in Norway; was that it?

A. The Consul did not do it. The United States Commissioner, Mr. Brown, did it.

Q. But under the request of the Consul?

A. Yes, sir.

Mr. McCLANAHAN.—Q. That is required by the Norwegian law? A. Yes, sir.

Mr. DENMAN.—Q. Copies of that report are here, are they not, that you made, through Mr. Brown?

A. I do not know. I have no copy of it.

Mr. DENMAN.—Have you a copy of that?

Mr. McCLANAHAN.—Yes.

Mr. DENMAN.—You served me with a copy of that.

Q. There is also a maritime protest, isn't there, in addition to that, that you filed?

A. That is the first day we came.

Mr. DENMAN.—There is another protest, the one you took before Edelman.

Mr. McCLANAHAN.—Yes.

Mr. DENMAN.—Q. That is here—is that charged up in these charges?

A. No; that was only 25 cents.

Mr. McCLANAHAN.—We will now withdraw the Captain and put Mr. Frey on.

Mr. DENMAN.—Very well. [178—58]

[Testimony of Adolph Julius Frey, for Libelant.]

ADOLPH JULIUS FREY, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. Mr. Frey, you are assistant manager, are you not, of the respondent or claimant in this case, the San Fransisco and Portland Steamship Company? A. Yes, sir.

Q. You verified the interrogatories which were attached to the libel in the freight suit, did you not?

A. Yes, sir.

Q. Mr. Frey, what is the pitch of the "Beaver's" propeller?

Mr. DENMAN.—Q. Do you know that of your own knowledge? A. I do not.

Mr. McCLANAHAN.—Q. Have you any knowledge on the subject at all, Mr. Frey?

A. Simply the information such as I could obtain.

Q. Where did you obtain the information from?

A. Through—well, I could obtain that through the marine superintendent of the company or from the chief engineer of the ship.

Q. Or from the builders?

A. The pitch at what time?

Q. On November 22d, 1910.

A. The builders have no knoweldge of that.

Q. That don't answer my question. Can you obtain the pitch from the builders? A. No.

Q. Not with reference to that time but at any time?

A. Not with reference to that time.

Q. For what time could you obtain the pitch of the propeller from the builders?

(Testimony of Adolph Julius Frey.)

A. Simply the pitch at the time of—the pitch prior to the delivery of the ship to the owners.

Q. That would be the pitch at the time of the trial trip? A. Yes, sir. [179—59]

Q. What was the pitch of the propeller at the time of the trial trip—

Mr. DENMAN.—I object—

Mr. McCLANAHAN.—Wait until I finish my question.

Q. (Contg.) —as obtained from the builders?

Mr. DENMAN.—I object to that question on the ground that it is hearsay—

Q. You do not know that of your own knowledge, do you? A. I do not.

—and on the ground it is irrelevant, incompetent and immaterial, and in no way binding on the claimant. Wait an instruction on that, Mr. Frey.

Mr. McCLANAHAN.—Q. Answer the question.

Mr. DENMAN.—We will take that up with the Court. I instruct him not to answer; we will take that up with the Court.

Mr. McCLANAHAN.—Do you want to stop this whole proceeding?

Mr. DENMAN.—No. We will refer that question up in due time. That is the way they do with those questions, when you ask improper questions. It is hearsay, what knowledge he had from the builders.

Mr. McCLANAHAN.—Q. Mr. Frey, haven't you the same knowledge with reference to the "Beaver" that you have as to the other ships of yours—do you want to say under oath to us you have no knowledge?

(Testimony of Adolph Julius Frey.)

Mr. DENMAN.—He has not said that.

Mr. McCLANAHAN.—Q. That you have no knowledge as to the pitch of the propellers of your different ships?

A. I have not, no personal knowledge.

Q. Isn't that quibbling with the question? Haven't you knowledge that is perfectly satisfactory to you as assistant manager of the company? [180—60]

A. I have not gone down and measured the pitch of the wheel of the vessels.

Q. Aren't you quibbling, Mr. Frey, when you say you haven't measured the wheel?

Mr. DENMAN.—The question is unintelligible, Mr. McClanahan.

Mr. McCLANAHAN.—The witness has not said so.

Mr. DENMAN.—I am going to point out wherein—

Mr. McCLANAHAN.—Are you pointing out that the witness said something unintelligible?

Mr. DENMAN.—Let me finish my objection before interrupting me.

Mr. McCLANAHAN.—You did not accept my suggestion when I asked you to not interrupt me, and so I have taken your suggestion.

Mr. DENMAN.—I have not interrupted you until you have finished. I object to the last question because it is improper in a legal sense, and in the second place it is not intelligible; he has already testified that he has not measured the wheel and does not

(Testimony of Adolph Julius Frey.)

know. The knowledge you want is accurate knowledge for the purpose of making computations as to the speed of the vessel at that time; there is a perfectly proper way of obtaining that information.

Mr. McCLANAHAN.—Read the question.

(The last question repeated by the reporter.)

A. I have not. The data or information which I have is that given me by the officers in direct charge of the particular work.

Q. That is the only method you have, Mr. Frey, of knowing a great deal about your ships that you do know, is it not? A. That is correct.

Q. Well, now, what is the information that you have with reference [181—61] to the pitch of the "Beaver's" propeller?

Mr. DENMAN.—At what time?

Mr. McCLANAHAN.—I am asking for all his information, Mr. Denman.

Mr. DENMAN.—Then I object to that on the ground it is indefinite, because there are a number of times, and he has gotten it from different persons, through different channels, and he can not answer the question as indefinite as that.

Mr. McCLANAHAN.—Q. Answer the question.

A. Does this refer to the time of the trial trip?

Q. If you want it to, I will get all the information you have before I get through with you.

Mr. DENMAN.—What is the question now?

Mr. McCLANAHAN.—I want the information that he has with reference to the pitch of the "Beaver's" propeller?

(Testimony of Adolph Julius Frey.)

Mr. DENMAN.—Q. Is this information you have of your own knowledge?

A. No, it is not.

Mr. McCLANAHAN.—Q. Answer the question.

A. My recollection is that at the time of the trial trip the pitch of the wheel was 22 feet 9 inches, that is, furnished us by the builders.

Q. That is your best recollection?

A. That is my recollection, yes.

Q. Where did you get that information from?

A. From the builders; that was furnished by the builders.

Q. Where is the data which shows that on record?

A. Well, that is matter of record in the office of the Newport News Shipbuilding and Drydock Company. [182—62]

Q. From that office it was transmitted to you, was it? A. Yes, sir.

Q. Where is the transmitted copy?

A. There is a copy in the office of our marine superintendent, I believe, in San Francisco.

Q. Can you produce it?

A. I believe so; if it is there.

Q. Will you please produce it. When did you see this copy last?

A. I saw it to-day, I think; I think it was lying on my desk at that time.

Q. When did you see it before to-day last?

A. I saw it—

Q. Let me see if I can refresh your memory: Did you see it when you swore to these interrogatories?

(Testimony of Adolph Julius Frey.)

A. I did not.

Q. When did you see it before today last?

A. I saw the information, I believe, some time in the summer of 1910.

Q. Is that an answer to my last question?

A. When did I see it last?

Q. Last before yesterday or to-day, A. Yes.

Q. Where did you see it then?

A. That passed through our office.

Q. Was that the time that you received it first?

A. Yes, sir.

Q. And you have not had occasion to look at it since then until to-day? A. No, not personally.

Q. Why did you qualify it; did you have some one in your office do it for you?

A. A great many of these things are looked after by subordinates.

Q. When you want information you often times ask a subordinate to get it from the data that you have in your office? A. Yes, sir. [183—63]

Q. Was that the course you pursued in answering the interrogatories that were annexed to the answer with reference to the trial trip of the "Beaver"?

A. That is correct.

Q. That is, you had some assistant in your office to give you the information that you wished with reference to the trial trip? A. Yes, sir.

Q. And it was furnished you? A. Yes, sir.

Q. Do you know whether that assistant secured the information from this data which we called for from you? A. No, sir.

(Testimony of Adolph Julius Frey.)

Q. Where from?

A. I do not know. It was some that was gotten from, I presume, from certain data which is on board the ship. I say that because certain data could not be furnished until the "Beaver" returned to port; she was on her way to Portland at the time.

Q. Who was the assistant that furnished you with this data on which you based your answers to the interrogatories?

A. Well, some was furnished by G. L. Blair.

Q. G. L. Blair; what does he do?

A. He is the general freight agent of the San Francisco and Portland Steamship Company; by virtue of that position he is also agent at San Francisco.

Q. And who was the other data furnished you by?

A. I believe some other data was furnished by Mr. Chisholm, the marine superintendent.

Q. What are his initials?

A. William. So far as the displacement—I believe there is a question in there about the displacement—of the ship is concerned, I figured that out personally from the blue-prints.

Q. From the blue-prints?

A. Yes, sir. [184—64]

Q. Have you blue-prints of the "Beaver?"

A. Well, there is a displacement scale.

Q. Who else furnished you data of your men?

A. That is all.

Q. Just those two men? A. Yes, sir.

Q. I call upon you to produce the report from the builders on which you say you think the pitch was

(Testimony of Adolph Julius Frey.)

22 feet 9 inches. Has this pitch been changed since the ship was built? A. Not to my knowledge.

Q. Did you hear the chief engineer testify in this case before the Inspectors?

A. I believe I did, I am not positive whether I heard all the testimony—I believe I did.

Q. Do you know where he got his information about the pitch of the wheel?

A. Well, no, I do not; possibly he measured it up himself.

Q. Do you remember what he said it was?

A. No, I do not.

Q. Is the engineer, the chief engineer, going to testify in this case?

A. It just passes through my mind my recollection may be faulty regarding the pitch of the wheel. That is my recollection of it.

Q. Will your chief engineer testify in this case?

A. Will he?

Q. Yes. A. I do not know.

Q. He is still with the "Beaver," is he?

A. Yes, sir.

Q. Does this report from the builders also show the "Beaver's" draught fore and aft at the trial trip? A. Yes, sir.

Q. Do you recollect what that was?

A. It was 13-odd forward—I don't know whether it was 13.9; I think so. And I think it was about 17 aft.

Q. You think about 17 aft? [185—65]

A. About 17 feet aft.

(Testimony of Adolph Julius Frey.)

Mr. DENMAN.—Same objection to all this testimony.

A. That is my recollection.

Mr. McCLANAHAN.—Q. What was the corresponding displacement of that draught?

A. About 4400, I should judge.

Q. About 4400. And that data will appear on this report from the builders? A. Yes, sir.

Q. Now, Mr. Frey, was not the "Beaver" last docked before the collision on the 4th of August, 1910?

A. She was docked in August, 1910. I could not say whether it was the 4th or not.

Q. Now, if you will just bring the reports of the builders, I think that will be all.

Cross-examination.

Mr. DENMAN.—Q. Mr. Frey, I will ask you whether or not any of the testimony you have given in certain places, any of the testimony you have given, is your own knowledge?

A. The exact information regarding the pitch of the wheel?

Q. Yes. As a matter of fact, all the testimony you have given here has been hearsay testimony, hasn't it? A. Absolutely.

Q. You have no personal knowledge of any of these things have you?

A. No, with the exception of the question about the chief engineer, still being on the ship.

Mr. McCLANAHAN.—Q. You have not personal knowledge of that? A. He was at last accounts.

(Testimony of Adolph Julius Frey.)

Q. You believe he is there just as you believe the figures that you have given me that you have taken from the reports of the builders to be correct, don't you? You believe them to be correct, don't you? [186—66]

A. In the absence of proof to the contrary I should assume that they were correct.

Mr. DENMAN.—That is only an assumption.

Mr. McCLANAHAN.—Q. They are the figures on which you base your conduct with reference to the "Beaver" wherever that data is involved?

A. Well, there are a great many conditions which I do not want to have it understood that we are guided absolutely by that data, because there may be a great many other conditions, weather conditions, the condition of the hull, which may vary the performance of the ship very materially.

Q. But ordinarily you rely upon them?

A. It is taken as a basis.

Q. Ordinarily you rely upon the data furnished by the builders? A. For general purposes.

[Testimony of Captain Olaf Lie, for Libelants—Cross-examination.]

OLAF LIE—Cross-examination.

Mr. DENMAN.—Q. Captain Lie, we had a great deal of testimony from you yesterday of a scientific nature, regarding various calculations as to the speed of the "Beaver," based on various hypothetical questions that were put to you, and assuming knowledge of the data as to what her trial trip speed was and all that sort of thing. Now, who prepared the ques-

(Testimony of Captain Olaf Lie.)

tions that were put to you here by Mr. McClanahan. Did you prepare them or Mr. McClanahan?

A. Mr. McClanahan prepared them.

Q. On data given to him by you?

A. I gave him the facts of everything and then he prepared the questions. [187—67]

Q. Who made the calculations that were made?

A. I made the calculations.

Q. Did you give him the papers on which those calculations were made or just the mathematical results? A. I just gave him the results.

Q. So that Mr. McClanahan did not work those out; you worked those out?

A. Mr. McClanahan had nothing to do with the working out.

Q. As a matter of fact, you have had a great many consultations with Mr. McClanahan during the course of the preparation of this case?

A. I have been there many times.

Q. Two or three times a week?

A. I could not say exactly how many times.

Q. You have been there a good many times; it would be pretty near that many times?

A. Yes; perhaps more.

Q. Referring to anotaer matter, you said that you were for a time employed as a seaman on an excursion steamer on the Norwegian coast; do you recollect that? A. Yes, sir.

Q. Before that you had taught in the Nautical School? A. Yes, sir.

Q. What did you teach?

(Testimony of Captain Olaf Lie.)

A. I teached in regard to navigation.

Q. That is to say you went from the Nautical School, teaching navigation, to the position of ordinary seaman before the mast is that it?

A. I was teaching assistant. I was assistant instructor teaching seamen that wanted to pass to get chief officer's certificate.

Q. I see. At that time had you your first officer's certificate? A. I had my officer's certificate.

Q. Had you your master's certificate at that time?

A. No, sir. [188—68]

Q. Now you say you studied maritime law there also? A. Yes—that is not in passing as mate.

Q. Well, when did you study maritime law—when was it? A. When passing as master.

Q. Passing as master? A. Yes, sir.

Q. And you kept up your study of maritime law ever since?

A. Not exactly—the maritime law that I need on board of ship.

Q. Have you read any of the cases in connection with this case? Did you look at any American reports at all? A. No.

Q. Not one?

A. Well, perhaps one or two cases in the United States.

Q. In the United States in connection with this case? A. Yes.

Q. Now isn't it a matter of fact that instead of being one or two you read about half a dozen?

A. No, sir, I have not.

(Testimony of Captain Olaf Lie.)

Q. What one or two did you read?

A. I read the Tellus and the Commonwealth.

Q. You and Mr. McClanahan exchanged scientific knowledge and legal knowledge together, didn't you?

A. I told Mr. McClanahan only the facts of my case.

Q. I know that. In the course of that you discussed the Tellus case—did he give you the Tellus case, or did you find it yourself?

A. I got the book.

Q. Who gave you the book?

A. I got it from Mr. Derby.

Q. He is Mr. McClanahan's partner, isn't he?

A. Yes, sir.

Q. And they directed your attention to that case, didn't they?

A. No; I asked for it, because he told me about it, and I was interested to see it.

Q. Now, do you recollect the drawing of the libels in these [188—69] cases?

A. Yes, I recollect; I could not say exactly the wording of it.

Q. But you do remember they were drawn?

A. Yes, sir.

Q. That you read them over? A. Yes, sir.

Q. Let us see what the libels were; there was one in the freight suit?

A. I have nothing to do with the freight suit.

Q. You have nothing to do with it but you saw the libel that was drawn in that suit, didn't you?

A. Well, I think I saw it once.

(Testimony of Captain Olaf Lie.)

Q. You read it over at Mr. Derby's request?

A. I did not read that over more than perhaps half of it.

Q. Which half of it did you read? You read the description of what you did there?

A. That is it, nothing else.

Q. That is to say from the time—the paragraph of the libel which referred to the happenings at the time of the collision? A. Yes, sir.

Q. That is what you refer to? A. Yes, sir.

Q. The libel stated it correctly, didn't it?

A. I think so.

Q. You did not notice anything wrong when you read it? A. No, sir.

Q. Now, you say that you read the Tellus case. We will drop that for the moment. Now, at 3 o'clock, when you heard the whistle of the "Beaver" what course were you sailing? A. South 65 east.

Q. And that would take you directly to the lightship, would it not?

A. A little to the southward of it.

Q. Wouldn't you go straight to the lightship? [100—70]

A. No, sir, not exactly.

Q. Didn't you say that it would in the testimony before the United States Inspectors?

A. I think I said perhaps a little to the southward, I think I did.

Q. What did you say in your statement before the Norwegian Consul?

A. I think I said I shaped my course for the light-

(Testimony of Captain Olaf Lie.)

ship—the course was shaped for the lightship, but it was a little to the southward.

Q. You would not go two or three miles to the southward?

A. No; it might be a quarter of a mile or an eighth of a mile.

Q. A quarter or an eighth of a mile to the southward of the lightship? A. Yes, sir.

Q. Now, then, you say that you heard this whistle of the "Beaver" straight ahead at that time?

A. That is what it appeared to me.

Q. Dead ahead at 3 o'clock, when you first heard it? A. Yes, sir.

Q. And you said that you did not know whether it was a factory—or was it a factory you said—what was it you said?

A. I did not say anything of the kind. I did not say factory.

Q. What was it you said?

A. I said that the whistle was located by me—the third officer and also chief officer was there, and that whistle was located, and we all agreed on it to be about right ahead and far off, but at that momen. I did not know what it was. It came to my mind that it was one of the whistles off the Golden Gate, because it sounded so far away.

Q. Now the whistles at the Golden Gate were how far away? A. Over 20 miles, more or less.

Q. It was a thick fog?

A. It was—well I said that you [191—71] could see perhaps two ships lengths.

(Testimony of Captain Olaf Lie.)

Q. Was it a thick fog? A. It was a dense fog.

Q. A dense fog? A. Yes, sir.

Q. Your idea is that you think it reasonable to hear the whistles off Golden Gate, 20 miles away, in a dense fog—as a reasonable supposition as to what that was?

A. Well, that is what came into my mind.

Q. Do you think the other two officers agreed with you on that subject?

A. I did not ask them that. We agreed upon it that that whistle was far away, and the conditions of the weather at that time was so fine that we never had any slightest doubt that there was any danger of collision.

Q. Now, I am not talking about danger of collision. Just confine your answers to my questions. You have had a chance and you will have plenty of chance given you by Mr. McClanahan when he takes charge of you. You say that you had discussed with the other officers, but you did not mention at that time to them— A. Did not mention—

Q. Wait a moment—the fact that it might be this land whistle?

A. I did not mention that to the chief officer. I mentioned it to the third officer when we commenced to time it.

Q. When you commenced to time it?

A. When we commenced to time it.

Q. When did you commence timing it?

A. That is at 3:05.

Q. You commenced at 3:05 to time it?

(Testimony of Captain Olaf Lie.)

A. Yes, sir.

Q. In other words, you heard this whistle blowing intermittently for five minutes without commencing to time it; is that correct?

A. Well, not exactly 5 minutes—but about 4 minutes, perhaps. [192—72]

Q. At that time you were in a dense fog. And by the way, were you in the path of the vessels coming out of the Golden Gate going north?

A. Well, we were in—we expect to meet vessels there, yes.

Q. That is the regular path, isn't it, for vessels coming into the Golden Gate and going out?

A. Yes, sir.

Q. And you say that you thought it was dead ahead, but that it might be one of the whistles in the Golden Gate; that is correct is it? A. Yes.

Q. Now, how about the direction of sounds coming through fog; is that a thing that you can determine with certainty or is it a matter that you are liable to be deceived by?

A. I have never been deceived upon it.

Q. So that you thought at that time that might be a whistle coming from the Golden Gate dead ahead under the course that you were sailing?

A. I didn't have in my mind exactly where the Golden Gate was at that moment. That just came to my mind because I didn't have the bearings of Golden Gate in my mind. I was steering the course for the lightship.

Q. You did not shape the course for the lightship

(Testimony of Captain Olaf Lie.)

without using a chart, did you?

A. I used the chart, but I did not really know at that moment exactly what the bearing of Golden Gate was.

Q. Well, how far is Golden Gate from the lightship?

A. I do not know exactly how far it is.

Q. It is six or seven miles, isn't it?

A. I do not know exactly how far it is.

Q. Well, it is over six miles, isn't it?

A. Well, I don't know how far it is.

Q. You had the chart before you within five minutes before that, [193—73] hadn't you?

A. Yes, sir.

Q. And it was six miles—you had seen it within five minutes, hadn't you?

A. Well, I did not measure that. I could not say. I would say perhaps six.

Q. But I mean, you could tell on the chart whether it is. A. Yes.

Q. Well, now, so that at that time you thought this sound was dead ahead of you—you located it as dead ahead of you and you thought it might be a whistle from the Golden Gate; that is correct, is it?

A. Yes, sir.

Q. And yet the Golden Gate is at least six miles from the lightship; is that correct?

A. It is to the north of the lightship, yes.

Q. Not to the northward. Let us take the chart and look at it.

A. As a matter of fact from the Point Bonita I was about east.

(Testimony of Captain Olaf Lie.)

Q. We will get the angle of that. We have got plenty of time. Now, Mr. McClanahan did not tell me yesterday the kinds of experts that you could qualify as, but I presume that you are sufficiently expert to be able to determine the distance on a chart with a compass and the standard of distance given you, aren't you? A. I think so.

Q. You qualified as that? A. I think so.

Q. You notice there is one half of this chart here.

A. That is right.

Q. The scale is not on there?

A. I do not want the scale. Here is a scale. I do not want that.

Q. I do need it, Captain; I very much need it.

A. Here is the scale.

Q. What is this that you are pointing to? [194—74]

A. This is a scale of latitude.

Q. Scale of latitude? A. Yes, a nautical mile.

Q. A nautical mile? A. Yes.

Q. Now, the half miles are not given, are they, very well? A. No, but I can fix that.

Q. Now, what is the distance from the—where was the point you were steering for. Just a moment.

A. I was steering for here, about (pointing).

Q. Mark that point, will you please.

A. About there (pointing).

Q. Just mark that, please; mark it "X"; put "Lie 1" after it, if you will please. A. Yes.

Q. What distance do you make that?

A. From what?

(Testimony of Captain Olaf Lie.)

Q. South of the lightship?

Mr. McCLANAHAN.—From where?

A. Here is point No. 1. Well, it is, you see—that point just suggested by me—

Mr. DENMAN.—Q. I know, Captain, but for my information—

A. (Contg.) You know about half a mile.

Q. That was the point when you looked at your chart, and that is the point you expected to go to (pointing). A. Yes.

Q. That was the point you were sailing for; when you said dead ahead, that would be a point dead ahead, wouldn't it (pointing)? A. Yes, sir.

Q. Now, how far is that point—just mark on here a point southeast of the Point Bonita in 35 fathoms of water. A. That is one point I had.

Q. But I know; just mark that point, southeast of Point Bonita in 35 fathoms of water.

A. South southeast? [195—75]

Q. No, southeast of Point Reyes. Southeast of Point Reyes. I want you to mark that point, southeast of Point Reyes, 35 fathoms of water.

A. Southeast—yes, I will take southeast, but that has nothing to do—I don't know what that means.

Q. I know, but I want that mark.

A. I said before the inspectors a southeasterly direction, and that did not mean southeast. I remember now what you are at. I did not say before the inspectors that it was southeast, I said a southeasterly direction; southeast is southeast directly.

Q. I have not said anything about the inspectors.

(Testimony of Captain Olaf Lie.)

A. No, but you know I remember it.

Q. I know but—

A. That is quite correct, I do not deny anything, Mr. Denman.

Q. I do not want you to deny anything; this is what I want you to verify.

A. I tell you this is the truth.

Q. Give me your 35 fathoms of water that you have there on the point you were speaking of before the inspectors—35 fathoms of water?

A. It is in the southeasterly direction; I said southeasterly direction, a southeasterly direction; it might be south southeast; it might be east southeast.

Q. I am quite well aware of that.

A. It is not 35 fathoms of water on that line except you get away down.

Q. Give it to me.

A. I will give you south southeast, which is the correct direction—south southeast is the correct direction—that is a southeasterly direction.

Q. Come on.

A. We had 35 fathoms of water on the line reported to me by the second officer,—

Q. Wait a minute. I am not asking for that. Where is the 35 [196—76] fathoms?

A. 35 fathoms may be there (pointing); it does not say anything.

Q. How do you know it was there then?

A. Because of the distance I run from abeam of that light.

Q. From abeam of the light. A. Yes.

(Testimony of Captain Olaf Lie.)

Q. Coming back to the direction taken in the fog, do that—find that.

A. I had three bearings and that was made at the time by me as near as I could make it.

Q. The point that you are referring to now is this point here (pointing)?

A. That is 2½ miles south southeast of Point Reyes.

Q. South southeast of Point Reyes?

A. Yes, sir.

Q. And in 35 fathoms of water?

A. That is what they reported to me by the lead. I did not look at the chart at that moment—I never looked at the chart then but the second officer gave me 35 fathoms.

Q. Now, I wish you would draw me a line—

Mr. HENGSTLER.—Get him to mark that point.

Mr. DENMAN.—No; that is all right.

Q. Just draw that line between that point and that point you have marked south of the lightship.

Mr. McCLANAHAN.—Q. Before you do that, Captain, have you placed the distance from the light to there? A. I have not.

Q. Well, do it please.

Mr. DENMAN.—That is marked circle, 2½ miles south southeast of the Point Reyes Lighthouse.

Q. Now, just connect that up with this, please.

A. I am marking my course. [197—77]

Q. You follow my question. Just draw the line there (pointing). A. Yes.

Q. Now, draw a line from this first point to the

(Testimony of Captain Olaf Lie.)

Point Bonita lighthouse; when the whole thing is done I will ask you about it.

A. Is that correct (drawing)?

Q. That is correct. Now, continue this line from the point circle below Point Reyes—continue this line through the course south of the lightship for say two inches. A. Yes.

Q. Now, measure the distance on the line running through the lightship that Point Bonita is from the point south of Point Reyes.

A. This line here (pointing).

Q. No; measure that; take this distance. Do not cut up the map.

A. I did not cut it. That is 8 knots.

Q. One moment. You have not got it right yet. Measure the distance on the line to the point below Point Reyes that the Point Bonita lighthouse was from this point here—get that distance and put it on the other log from point 0. Mark that point "Lie 2" to Point Bonita. A. 7¼ miles.

Q. 7¼ miles. Now, as I understand it, to repeat my question, you thought this sound came from dead ahead on your course and at the same time you thought it might come from the lighthouse that was 7¼ miles off that course?

A. I did not think it was 7¼ miles. The thought just came into my mind, that is all.

Q. But you were in the fog then, weren't you?

A. Yes, I was in a dense fog.

Q. In the course of vessels coming out of the Golden Gate? A. Yes, sir. [198—78]

(Testimony of Captain Olaf Lie.)

Q. And you thought that this—you were trying to make up your mind what it might be?

A. Yes, sir.

Q. Had conversation with your other officers at that time, didn't you? A. Yes, sir.

Q. And at that time you thought that dead ahead of you was the sound of a lighthouse that was actually 7¼ miles off your course; that is correct?

A. I did not say it was a lighthouse 7¼ miles from my course. I said that the sound practically right ahead so sounded to me, so faint and indistinct, it seems to me it would be off the Golden Gate. That is what I said.

Q. But you say you did think it came from the land whistle? A. Yes, sir.

Q. And it might be those whistles 20 miles off, through a dense fog, and 7¼ miles off your course?

A. Dense fog does not interrupt any sound; in dense fog you can head a sound better than in clear weather.

Q. You can?

A. So they say; that is what I read.

Q. That is your knowledge regarding the fog, what you read, is it?

A. Well, and my experience also, that I have heard the fog whistles.

Q. Then as a result of your experience you thought that this fog-whistle 7½ miles off your course might be directly on your course?

A. I did not say 7½ miles off my course.

Q. It was, in fact?

(Testimony of Captain Olaf Lie.)

A. I did not have that exactly in my head at that time, but when—

Q. Wait a minute.

Mr. McCLANAHAN.—Let him finish his answer.

Mr. DENMAN.—Q. Didn't you have the chart?

A. (Contg.) It came into my mind and I knew that it was absolutely no danger [100—79] of collision, and as a matter of fact I heard the sea-gulls fly, and it was so quiet that I could hear anything about; it was absolutely quiet.

Q. Now, as a matter of fact, how many points off your bow would that fog-whistle from the land have been? A. About a point and a quarter.

Q. Now, just measure that.

A. That is easy. I can take that. Well, it is not there. I have got to take it up there. It is not from this point. I have got to take it from the point I first heard, not from the point there.

Q. All right. You take it then from the point you first heard it.

A. Then I have got to figure this. This is only a guess, this is not the course.

Mr. McCLANAHAN.—Q. What are you pointing to when you say that?

A. The lightship, because I said the course would take me to the southward of that.

Mr. DENMAN.—He said it would not take him two miles to the southward of it.

The WITNESS.—No.

Mr. DENMAN.—Q. You have the points there, Captain.

(Testimony of Captain Olaf Lie.)

A. Any man can do that when you have the data. This is not anything that is secret; there is no secret in it.

Q. There will be no secrets between us when we get through with the examination.

A. That is 21 degrees.

Q. How many points is that?

A. That is one and three-quarters points.

Q. So that at that time then in determining what this sound was you determined that a sound which should have been one and three-quarters [200—80] points off your bow, as a matter of fact was dead ahead?

A. As I said before, I did not know exactly how many points the Bonita Point was off, because I did not look at that when I left the chartroom, and it sounded to me so far away that it just came into my thought, that is all. That is what I said, it just came into my mind, that is what I thought. I did not ascertain this by going into the chartroom and seeing how many points it was on the bow because I did not have time to do that.

Q. You had just been in the chartroom, hadn't you? A. I had.

Q. You had just located the lightship, hadn't you?

A. I did not locate the lightship; I just took my parallel ruler to take the course for the lightship and went out; I never paid any attention to what the bearing was; I just took the parallel ruler and took the course for the lightship and shaped the course for the lightship.

(Testimony of Captain Olaf Lie.)

Q. Now, just kindly draw a course south 65 east from the point you were on, and from the course you sailed past Point Reyes. Take it off here and run it down. A. South 65 east?

Q. South 65 east, yes.

A. Yes. (The witness draws.)

Q. Now, Captain, kindly measure for me the distance that that course is south from the lightship?

A. South from the lightship?

Q. Yes. A. One and one-half miles.

Q. Nautical miles, aren't they, always?

A. Yes, sir.

Q. Were you trying to get in Golden Gate by going one and a half miles south of the lightship?

A. No, I was not trying to get in the Golden Gate; I was going to get the pilot by the lightship. But I want to say also that I had a chart, a British, [201—81] Admiralty chart, on which the scale was a little smaller than this, and when I shaped the course I shaped the course south 65 east for the lightship, which would take me on that chart a little to the southward of it, but I did not measure exactly the distance at that time.

Q. You did not have this chart on your vessel then?

A. No, sir.

Q. What is that British Admiralty chart, what is the number of the chart?

A. I don't know exactly what number it was.

Q. Have you procured one since you came in here?

A. No, sir, I have not. This is the chart I laid it off on on shore.

(Testimony of Captain Olaf Lie.)

Q. When you came on shore? A. Yes, sir.

Q. That is to say, the day after?

A. Yes; this chart I used when I came ashore.

Q. That was the day after you arrived?

A. Yes, the day after—it was the day after, yes.

Q. That is when you made up your log, was it not?

A. I did not have the chart when I made up the log.

Q. It was on that day?

A. That I bought the chart.

Q. So it was this chart that you testified to when you went before the United States Inspectors—

A. I did not testify—

Q. Wait a moment, Captain.

Mr. McCLANAHAN.—Let him finish his question, Captain.

Mr. DENMAN.—Q. It was on the examination made on this chart that you testified to when you went before the United States Inspectors?

A. No, sir, I testified just to my mind on that day, I did not have—

Q. But you had examined this chart?

Mr. McCLANAHAN.—Let the captain finish his answer. [202—82]

Q. What was it you were going to say, Captain?

A. I did not have that chart in my mind because I did not draw the course on this chart, south 65 east, further than up to the collision, because I did not reach any further, and I did not know how far it would take it off on this chart.

Mr. DENMAN.—Q. Now, sit down, Captain. I

(Testimony of Captain Olaf Lie.)

think that is all for the present on the chart. You say that ultimately that proved to be the "Beaver," didn't you? That whistle that you heard at 3 o'clock proved to be the "Beaver" ultimately?

A. Yes, sir.

Q. I am now taking the very farthest distance, the farthest distance under your theory, that the "Beaver" could have been from you at that time—how far was it? A. 4.83 knots.

Q. 4.83 knots. A. That is to say, at 3 o'clock.

Q. So that at that time when you thought this whistle might be a sound 20 miles away and dead ahead, it was as a matter of fact the sound of a whistle only 4.8 miles away, and coming on a course considerably off your bow and on your port bow? That is correct, is it not?

A. It was a little on our port bow, yes.

Q. How much on the port bow?

A. About 14 or 15 degrees, it proved to be, after I located it on the chart.

Q. How much is 14 or 15 degrees?

A. That is a point and a quarter.

Q. So at the time you thought it was dead ahead, it was really a point and a quarter on your port bow?

A. Yes, sir.

Q. You did not make up your mind until 10 minutes after 3, as I understand—

A. (Intg.) I did not make up my mind what the bearing was absolutely at that moment, but I said the bearing was a little on the port bow, after the first bearing, but that [203—83] only strengthened my

(Testimony of Captain Olaf Lie.)

thought that it must have been some time before I commenced to time it,—the first whistle sounded to me practically right ahead, and the second whistle only confirmed it, although it sounded a little bit on the port bow, and it confirmed my thought.

Q. I see. When did you make up your mind that it was a steamer approaching? A. At 3:10.

Q. Up to that time you did not know whether it was a steamer's whistle in the distance?

A. I was not quite sure.

Q. At 3:10 how far was it from you?

A. 1.54 nautical miles.

Q. So that in the fog then, in the dense fog, you were not able to tell that that was an approaching steamer until it was within a mile and a half of you. That is correct, is it not?

A. I was not quite sure what it was before that, no, sir.

Q. So that then, when she was within, just before she was within a mile and a half, it might have been a whistle 20 miles away of the fog signal station at Golden Gate?

A. The whistle did not then sound as loud by far as Point Reyes whistle sounded when I was abeam, and that was a little over a mile and a half.

Q. Well, you say it was a little over a mile and a half. Now it might have been more than that, might it not? A. What?

Q. The Point Reyes whistle, that it was abeam?

A. No, sir—that is correct; a mile and five-eighths.

Q. A mile and five-eighths.

(Testimony of Captain Olaf Lie.)

A. Yes; that is only one-eighth of a mile, two ship-lengths, more.

Q. What sounding did you have then at 2:50?

A. 29 fathoms. That is, reported to me by the first officer when he came on the [204—84] bridge, he reported 29 fathoms.

Q. At what time did he claim that that was taken?

A. He claimed that that was the last sounding he had; he gave me all the slips; he had 28 fathoms just when we entered the bank, and then had 29 when he came on the bridge.

Q. When he came on the bridge?

A. When he came on the bridge; the 29 fathoms, I don't know who took that.

Q. As I understand it, you had not passed Point Reyes. He had this when he had come on the bridge? A. Yes, sir.

Q. Did you get any more soundings after he came on the bridge?

A. No, I did not get any more except of the second officer reporting to me after he came ashore.

Q. After he came ashore? A. Yes, sir.

Q. So that the soundings, then, that you determined your location, with reference to Point Reyes, were soundings that the first officer brought to you when he came on deck? A. Yes, sir.

Q. What time was it he came on deck?

A. What time he came on deck?

Q. Yes—he came up on the bridge?

A. He came on the bridge a little after 2:50.

Q. A little after 2:50? A. Yes, sir.

(Testimony of Captain Olaf Lie.)

Q. And these soundings—did he have the times of the soundings?

A. He had it on the slips, the time.

Q. Can you tell me exactly what was on those slips?

A. I said that it was 29 fathoms; it was put down to me 29 fathoms when the ship was abeam.

Q. But you did not determine the ship was abeam until after the first officer came up on the deck? [205—85]

A. I said to him she was abeam at 2:50. I had taken the bearings and changed the course before he came on deck, before he came up.

Q. That is, you took the bearings and changed the course?

A. And then he came on the bridge, and then I got his slips and went into the chartroom.

Q. Then you changed the course without knowing what the sounding was?

A. I changed the course exactly when we were abeam.

Q. I say you changed the course without knowing what the sounding was?

A. Of course, when I changed it I did not wait to get the sounding.

Q. So that you changed your course without knowing what the sounding was? A. Yes.

Q. You had not had any soundings for 15 or 20 minutes before that?

A. Yes. The slip was given up to me up to 2:40.

Q. I thought you said the slips were brought up by the first officer?

(Testimony of Captain Olaf Lie.)

A. Some of them. Some of the slips were brought up to me by the quartermaster who was with him,—one of the sailors and one quartermaster.

Q. Now, what slips did you receive prior to this and what hours did they have on and what depths of water?

A. I have told you; I gave you an answer, that when I found out we were on this bank here the sounding showed—

Q. (Intg.) Tell me the slips.

A. I don't remember the slips, how many fathoms of water on it, but I remember that was what the slips showed.

Q. You don't remember the fathoms on them?

A. I remember the fathoms when we were abeam.

Q. Tell me; what did you receive at 2:30? What was on that slip? [206—86]

A. I don't remember the slip.

Q. You have a good memory, Captain.

A. Yes, but I can't remember the soundings in every five minutes.

Q. But this was at the very crux of your trip, this was at the important point of your trip, to find out where you were—this was the important point of your trip, coming into San Francisco, to determine where you were? A. Yes, sir.

Q. And you have a remarkable memory, haven't you? A. I can remember, yes, pretty good.

Q. And the important thing after this collision occurred was to locate that ship for your Veritas reports, so that you would clear your mind up as to the

(Testimony of Captain Olaf Lie.)

details of these various things as to the collision; is that correct? A. Yes, sir.

Q. Now, I ask you what depth was reported to you at 2:30 on that day?

A. At 2:30 I expect I had the bearing of the light.

Q. You got that yourself, didn't you?

A. Yes, but at 2:35 I got 28 fathoms.

Q. You got 28 fathoms at 2:35? A. Yes.

Q. What did you get at 2:40?

A. I don't remember that.

Q. You don't remember what you got at 2:40?

A. No, I don't remember.

Q. What did you get at 2:45?

A. I don't remember the exact depth then, either.

Q. Well—

A. 29 fathoms was given to me when we were abeam.

Q. Given to you when you were abeam. You don't remember whether it was taken at 2:45.

A. But you must remember I had the hearing of the light—

Q. I am not talking about that. You don't know what—

Mr. McCLANAHAN.—Let him finish his answer. [207—87]

Mr. DENMAN.—Q. I say, you don't remember what depth of water you had at 2:45. Do you or do you not? A. I don't remember now.

Q. All right.

Mr. McCLANAHAN.—Let him finish his answer now.

(Testimony of Captain Olaf Lie.)

Q. What were you going to say, Captain?

A. I want to say that I do not remember all these soundings because I went into the chartroom and laid off the soundings and found out we were about a mile and a half on that chart off Point Reyes, about, and therefore I did not think more of those soundings, because I found them to be on the bank, just on the edge of that bank, and that is all I thought about.

Mr. DENMAN.—Q. Now, what sounding was reported to you at 3 o'clock?

A. There was no sounding reported to me at 3 o'clock.

Q. So at 3 o'clock you don't know what the sounding was? A. No, sir.

Q. You don't know what your sounding was at 2:55, either, do you? A. No, sir.

Q. Do you know what you sounding was at 3:05?

A. No, I do not know the exact sounding.

Q. You testified yesterday that you kept your soundings up to 3:10; is that correct?

A. Yes, sir.

Q. You don't know what they are?

A. I did not care much about the soundings after I ascertained the position to be about a mile and a half; the sounding was not necessary for to shape the course then, but I did not discontinue the soundings yet. I have not given an order to discontinue the soundings.

Q. But you were continuing to do that.

A. But I didn't see the use. [208—88]

Q. Suppose the soundings from 2:50 to 3:10 were

(Testimony of Captain Olaf Lie.)

35 fathoms, and each sounding was 35 fathoms, what would that indicate with regard to the course of your vessel?

A. That would indicate that we perhaps, if he said it was 35 fathoms all the time, might be an eighth of a mile farther out.

Q. Now, can you trace any course on there from the point you have marked as the point of collision that will run from 2:55 until 3:15—

A. I have not—

Q. Wait a minute—at 35 fathoms of water?

A. Not to that point (pointing)—it might be that it was further south, that is all, because you do not get on a ship exactly the soundings that is indicated on there—

Q. I am not asking you about that.

A. As I said, I ascertained the position about so much off there (pointing), and the position of the collision asbis 2½ miles off Point Reyes in a south southeast direction, within a ship-length or so, at the utmost—and that is a good ascertainment, I should say.

Q. Now, let me ask you with regard to these soundings reported to you. What do they report to you when you get soundings from the Lord Kelvin instrument? What do you get, the depth of water under the vessel? A. I get the depth of water, yes.

Q. That is the actual depth that is shown on Lord Kelvin's instrument at that time? A. Yes, sir.

Q. Is there any place where you can run for 20 minutes at 35 fathoms and get it constantly, and land

(Testimony of Captain Olaf Lie.)

where you claim the collision was?

A. It may be out there.

Q. Is there any place on that chart?

A. It is hard to say. If you can place the sounding— [209—89]

Q. I am asking you.

A. I would explain that the sounding is taken on this chart—within one-half a mile it might be 35 fathoms, between 36 and 34, but it is not so exact; if we land on 35 fathoms we would get 35 fathoms there and a ship length away we might get 40.

Q. Is there any place on that chart where you can draw a course showing 35 fathoms at 3 o'clock on a course south 65 east—that would be north 35 west?

A. May be there (pointing). That may be 35 fathoms on that.

Q. It may be 35 fathoms. That is the 30 fathom mark. A. That is 35 outside.

Q. 34 outside.

A. It does not say—it may be 35 inside of it; it may be, because I am so used to taking soundings that I have many times got that.

Q. Then these soundings you were relying on to locate your position may have been incorrect?

A. Are accurate.

Q. The chart you relied upon might have been incorrect?

A. No; we might not have dropped our lead on that figure (pointing).

Mr. McCLANAHAN.—Q. What figure are you pointing to?

(Testimony of Captain Olaf Lie.)

A. To 34. We might not have dropped the lead on that figure. The bottom may be going that way; the bottom is not even, you know, so that you might get 32 fathoms there, and then get 34 there and then get 36 there (pointing).

Q. But this is in the same direction. You do not find any case where on this chart—where it is 34 and then 32 and 36, do you between one another?

A. The position is out so—

Q. (Intg.) Answer the question.

A. I cannot say now absolutely.

Q. You can see the chart in front of you. Is there any such position [210—90] as that on the chart, the condition of soundings?

A. Yes, within a quarter of a mile.

Q. Where you have a sounding at first a deep sounding and then a shallow sounding?

A. If you should take soundings corresponding with this chart you might find your course to be this way (pointing). But we have got to take the soundings and lay them down, because we never get the soundings on the chart to correspond exactly with these, because—

Q. (Intg.) How can you tell in the fog whether it corresponds exactly with that?

A. Because I can see if I am outside or inside 35 fathoms—because that means 5 fathoms—

Q. (Intg.) If at 3 o'clock you got a sounding of 35 fathoms, you must have been outside—

A. (Intg.) The bearing—

Q. (Intg.) Listen to me. You must have been

(Testimony of Captain Olaf Lie.)

outside the 30 fathom mark, must you not?

A. Well, if he said 35 fathoms at 3 o'clock, it must have been outside.

Q. If he said he had 35 fathoms at 2:45, Captain, where would that put you?

A. 35 fathoms at 2:45, I could not say where it put me.

Q. Suppose he said 35 fathoms at 2:50, would that correspond with the results you have on the map?

A. Not exactly.

Q. It would be a good ways off, would it not?

A. No. But I want to state that my position off that light is also corresponding with the soundings up to 2:50, and also the bearings taken of the light at 2:30.

Q. Don't you know as a matter of fact that your officer who was taking the soundings at 2:45, 2:50, 2:55, 3:00 and 3:05— [211—91]

A. (Intg.) I did not pay any attention after 3:15.

Mr. McCLANAHAN.—Q. After 2:50 you mean?

A. After 2:50, yes.

Mr. DENMAN.—Q. Don't you know, as a matter of fact, that the officer that took your soundings at 2:45, 2:50, 2:55, 3:00, 3:05 and 3:10 swore at the taking of the testimony in your presence that he got 35 fathoms at each one of those times?

A. He did not—

Q. Five minute periods?

A. He did not report the soundings to me.

Q. I am asking you if he did not swear to that in your presence when the depositions were taken in

(Testimony of Captain Olaf Lie.)

Mr. McClanahan's office?

A. I don't remember if he said he took the soundings at 2:45.

Q. You were in the room when his testimony was given, were you not, in Mr. McClanahan's office, when the testimony was given? A. Yes, sir.

Q. And you were then the libelant in this case, were you not? A. Yes, sir.

Q. And suing in this case, were you not?

A. Yes, sir.

Q. And you and Mr. McClanahan were together there conducting the case, were you not?

A. Yes, sir.

Q. Now, do you remember that your witness that had charge of the soundings reported and swore at that time that he had taken soundings at 2:45, and took the soundings each five minutes thereafter, and that each sounding was 35 fathoms?

A. I do not remember if he said at 2:45, because the chief officer was there—he was relieved at 2:45, the chief officer was.

Q. The chief officer brought you the soundings at 2:50 you said?

A. Yes—just a few minutes after 2:50 he brought me [212—92] them and I went into the chart-room.

Q. As a matter of fact, don't you recollect your officer in charge of the soundings at 2:45 and 2:50 swore that the soundings at that time were 35 fathoms? A. Well, I heard he said he had 35 fathoms.

Q. You heard him say that?

A. I heard him say he had 35 fathoms. I don't

(Testimony of Captain Olaf Lie.)

know whether he said 35 fathoms at 2:45; he said 35 fathoms.

Q. At what time?

A. He said he had 35 fathoms—he gave you 35 fathoms when the collision was.

Q. Do you recollect what he said on the occasion of the taking of his testimony in Mr. McClanahan's office—do you remember what he said?

A. Well, I remember he said 35 fathoms.

Q. Let me call your attention to the testimony.

A. Yes, sir.

Q. What was the name of the officer that took charge of the soundings after the first officer came to you? A. Larsen.

Q. Now, Captain, you have just testified that you recollect that you heard Larsen testify as to the soundings he took? A. Yes, sir.

Q. I call your attention to the following testimony:

"Q. Where is that sounding machine located on your ship? A. On the poop.

Q. On the poop a little on the starboard side?

A. Yes; it is about amidships.

Q. Did you take any soundings after you got to the machine?

A. Yes; I commenced a quarter to 3 to take soundings every five minutes. [213—93]

Q. Who was there with you at the time?

A. There was two sailors.

Q. What were they doing?

A. They were pulling in the lead.

Q. What depth of water did you find while

(Testimony of Captain Olaf Lie.)

you were sounding? A. Always 35.

Q. 35 what? A. Fathoms.

Q. How long did you continue to take soundings? A. The last one I had was 3:10.

Q. Do you know what the course of the ship was at that time? A. No sir.

Q. Do you know what the speed of the ship was at that time?

A. No, I did not look."

Do you remember that testimony, Captain?

A. Yes, sir.

Q. That is entirely inconsistent with the theory that you took the sounding of 28 at 2:50, isn't it?

A. I did not say 28 at 2:50; I said 29.

Q. 29 at 2:50. Now, if that was so, 35 at 2:50, it could not have been 29, could it? A. No, sir.

Q. It is entirely inconsistent with your statement that it was 29, isn't it?

A. That is given to me by the first officer.

Q. I am talking about the testimony of the man that took the sounding. That is entirely inconsistent with your statement that it was 29, is it not?

A. Well—

Q. (Intg.) It is inconsistent, is it not, Captain? Yes or no? A. It does not correspond, no.

Q. You were in the room when that testimony was given, were you not? A. Yes, sir.

Q. And within four or five feet of the witness, were you not? A. Yes, sir. [214—94]

Q. That testimony was taken in the morning, was it not, and the examination went on in the afternoon,

(Testimony of Captain Olaf Lie.)

did it not? A. Yes, sir.

Q. Now, let me ask you with regard to your knowledge of the rules, as an expert, Captain, did you consider that proceeding on the regular passageway of vessels through the Golden Gate north around Point Reyes, with a dense fog, and the atmosphere in such a condition that you could not tell whether a steamer's whistle is a steamer's whistle a mile and a half away or the whistle of a fog horn 20 miles away, that six knots is a proper rate of speed to send your vessel ahead on?

Mr. McCLANAHAN.—I object to that on the ground that the hypothesis is not properly stated; the light is not shown to have been 20 miles away when the "Beaver" was one and a half miles away.

Mr. DENMAN.—Q. Considering the question altered so that the whistle of the lighthouse is 18 miles instead of 20 miles away. Now, with the fog in that condition, and on the fairway of vessels, and a dense fog,—dense and thick fog—do you consider that six knots an hour is a proper speed at which to navigate your vessel?

A. I thought that six knots was moderate speed under the circumstances I had.

Q. Have I properly described the circumstances?

A. I have.

Q. Have I properly described them in my question? It was true, was it not, that you could not tell until you were within a mile and a half of the "Beaver" that it was the "Beaver" or it was a steamship —you could not tell until you got within a mile and a [215—95] half that it was.

(Testimony of Captain Olaf Lie.)

A. When I was a mile and a half I knew it was a steamer.

Q. Until that time you could not tell; that is your testimony? A. Yes, sir.

Q. And you did not know at that time until you were within a mile and a half of her—you did not know whether it was a steamer's whistle or the whistle of a lighthouse 20 miles away, or 18 miles away; that is correct, isn't it?

A. It just came into my mind.

Q. You could not tell whether it was one or the other up to that time; that is correct? A. Yes, sir.

Q. With the atmosphere in that condition and the sounds being conveyed in that way, and in the fairway of vessels sailing up and down the coast, do you think that six knots an hour was the proper speed at which to send your vessel ahead?

A. I proceeded at six knots up to 3:05, but then I reduced it to three knots, about three knots.

Q. I am asking you my first question.

Mr. McCLANAHAN.—But your first question is not properly hypothecated.

Mr. DENMAN.—I am asking him my question. When you get him on redirect examination you can ask him about it.

Mr. McCLANAHAN.—But you say the vessel was going at six knots at 3:10; that is an improper assumption. Then the distance away was incorrect.

Mr. DENMAN.—What I said was, when the atmosphere was in a condition where he could not tell, when the vessel was a mile and a half away, whether

(Testimony of Captain Olaf Lie.)

or not the whistle that he heard was from [216—96] that vessel or from something 18 miles away; that is the condition of the atmosphere—however, the atmosphere did not change between 3 and 3:10, did it?

The WITNESS.—No, about the same.

Mr. DENMAN.—Q. Now, do you think that six knots speed is a proper speed on a fairway of vessels under those conditions?

Mr. McCLANAHAN.—I object to that question on the ground that there is nothing in the evidence to show that the speed of the "Selja" was six knots at that time.

A. I consider six knots to be moderate up to 3:05.

Mr. DENMAN.—Q. 3:05. And the conditions were as I have described them? A. Yes, sir.

Q. Now, as I understand it, you maintained your steerageway aft until 3:14, didn't you?

A. About that; I did not look at the clock exactly.

Q. So that at 3:13 you still had, steerage way, didn't you? A. Yes, sir.

Q. What speed were you going at 3:13, according to your theory?

A. Oh, at 3:13 I should say she was going about a knot and a half, perhaps.

Q. So that you had steerageway of a knot and a half at that time? A. Yes, sir.

Q. At 3:14 you say she was nearly at a standstill?

A. Well, she was not exactly at a standstill; she was—I thought then to answer the "Beaver's" next whistle with two—

Q. (Intg.) I am asking you now at 3:14—fix the

(Testimony of Captain Olaf Lie.)

time. Now, at 3:14 she was nearly at a standstill, but not quite?

A. Not quite. I could not say she was not moving a little.

Q. She was nearly at a standstill? A. Yes.

Q. At that time? A. Yes. [217—97]

Q. You want to swear to that, do you?

A. Yes, I swear to it; I have said it.

Q. You do not make any distinction, then, between the statements you make under oath and the statements you swear to, do you?

A. I am under oath; everything I say is supposed to be the truth.

Q. I am not talking about that. Suppose you were not under oath?

A. I would say the same thing.

Q. Then, if you said she was nearly at a standstill at 3:10 when you were not under oath, it was just as good a statement as she was nearly at a standstill at 3:14. That is correct, isn't it? A. The log—

Q. (Intg.) Is that correct?

Mr. McCLANAHAN.—Let the witness answer the question. He does not get a word out before you press him to answer the question.

A. The log shows—

Mr. DENMAN.—Q. I am not asking what the log shows. The fact that you are under oath now, when you said that it was nearly at a standstill at 3:14, is not of any more value because you are under oath than a statement you made not under oath that she was at a standstill at 3:10—there is no difference on

(Testimony of Captain Olaf Lie.)

account of that? A. No, sir.

Q. There is no difference on that account?

A. No, sir.

Q. Now, at what speed were you under at 3:10?

A. She was then making about three knots.

Q. Now, as a matter of fact, Captain, didn't you swear when you were before the Consul and making your statement for your home government that at the hour of 3:10 she was making four knots? [218—98] A. Yes, but now let me explain.

Q. Wait a minute.

Mr. McCLANAHAN.—Let him explain.

Mr. DENMAN.—Q. You did state that?

A. Yes.

Mr. McCLANAHAN.—He has said yes; now let him explain.

A. The explanation is that when I said four minutes I really took in mind that she was going six knots at 3:05, and at 3:10 she was going 3, and the average speed would be about four knots, between those five minutes. That is what came into my mind at that moment. I said four knots, but I know this, that the revolutions would show she could not have gone four knots at 3:10.

Q. I do not know anything about the revolutions, neither do you know about the revolutions, because you were not in charge of the engines, and all you know about the engines is hearsay. I am asking for your own knowledge. As I understand it, at 3:05 she was going at six knots, was she not?

A. Yes, sir.

Q. At that time you dropped, according to your

(Testimony of Captain Olaf Lie.)

story—that is, according to one of your stories, you dropped a revolution so that she went down to slow speed? A. Yes, sir.

Q. At 3:05? A. Yes, sir.

Q. Now she had an impetus of six knots, didn't she, at 3:05? A. Yes, sir.

Q. She had a push of three knots in her engines, didn't she? A. Yes, sir.

Q. From 3:05 on? A. Yes, sir.

Q. Now, how long would she carry the impetus of the six knots speed?

A. About a minute or a minute and a half.

Q. About a minute or a minute and a half?

A. Yes, sir.

Q. How long would she carry the impetus of the three knots [219—99] speed?

A. She would carry that as long as she was going three knots.

Q. Why is it, Captain, that you said she would drop the six knots impetus in a minute and a half and she would hold the three knots impetus for five minutes?

A. That is not to say she would drop it exactly; she would gradually decrease, gradually. I did not say drop exactly.

Q. You said a minute and a half—she would gradually decreased.

A. She would gradually decrease until she would get down to her three knots. I said she would maintain her six knots probably for a minute and a half.

Q. All right. You were going then at the rate of

(Testimony of Captain Olaf Lie.)

six knots from 3 o'clock until 6½ minutes past 3; is that correct? A. About that.

Q. All right. A. I mean about that.

Q. Then she began to drop her speed, did she?

A. Yes.

Q. How soon would she drop from six knots that she was going at 6½ minutes past 3 down to the push of three knots?

A. I could not say exactly, I would say she would drop down to that speed in about four minutes; she would be down to that speed in four minutes or three and a half minutes.

Q. In three and a half or four minutes?

A. Yes, sir.

Q. When you said that the speed that she was maintaining at 3:10 was four knots, that is under oath before the Consul, you were mistaken as to that, were you?

A. I did not know that I said four knots, but I had that in mind and the four knots might have slipped out of my mouth.

Q. I know, but you did not send the statement on home for a long time, did you? [220—100]

A. I did not see the statement at all. I did not know anything about it.

Q. Never saw it again?

A. Yes; I saw it here this year.

Q. How long ago did you see it?

A. Last January, I think it was; I think so.

Q. Did you make any corrections or suggest any corrections?

(Testimony of Captain Olaf Lie.)

A. Absolutely not; I have no right to make any corrections.

Q. You have not, when you make a mistake?

A. No, I would not do that—it was only one mistake that I think of, that is, the four knots.

Q. So that you think you dropped your speed entirely from 3:05, dropped the six knots speed entirely, so that she was running at 3 knots by 3:09. Is that correct? A. That is, about that.

Q. Why then, did you testify before the United States Inspectors that at 3:10 you were going between three and four knots?

A. Well, I could not say exactly; it is as near—I said about three knots; about three knots. It may be that I said three or maybe three and a half—I said about three, and now that I have said four, the one-half is not much out—it is about three or three and a half knots—it is practically the same. It would not make any difference in five minutes in any case.

Q. Why then did you state in your written log that at 3:10 she was nearly at a standstill?

A. The log was made out by the chief officer, and I signed it, but I never took much notice of that standstill; the standstill is properly in the log; it is true she was nearly at a standstill between 3:10 and 3:15.

Q. Now I will read you the log: "At 3 o'clock we heard a deep steam [221—101] whistle ahead quite faint and from then on heard it about every minute; we answered with the same interval." Is

(Testimony of Captain Olaf Lie.)

that statement true? A. Yes, sir.

Q. Did you hear it every minute after 3 o'clock?

Mr. McCLANAHAN.—He said about.

A. We heard it about every 55 seconds.

Mr. DENMAN.—Q. I thought you did not determine that until 3:05.

A. Well, I said about. I do not see anything in that log that I commenced to time it at 3:05. It was about every minute.

Q. "At 3:05 P. M. ordered slow speed, as we heard the whistle nearing, and at 3:10 stopped the engine, the vessel being then nearly at a standstill." That is correct, isn't it, that statement here?

A. Well, probably that is about the translation of it. That is not exactly the Norwegian wording of it.

Q. What is the Norwegian wording of it, Captain. We have a Norwegian copy of it, that is in evidence, haven't we? A. Yes, sir.

Q. That is correct in the Norwegian copy that is in evidence? A. Yes, it is correct.

Q. Then you did sign a statement here in which you stated at 3:10 she was nearly at a standstill?

A. Yes, sir.

Q. You did sign that statement? A. Yes, sir.

Q. Now then again, about a week afterwards, you signed it again, did you not? A. Yes, sir.

Q. And between those two times the question of the speed that you were making at 3:10 came up before the United States Inspectors, did it not?

A. I think it did. [222—102]

Q. Between those two times? A. Yes, sir.

(Testimony of Captain Olaf Lie.)

Q. And you signed it the second time, in which you still had the statement at 3:10 you were nearly at a standstill; that is correct, isn't it?

A. Well, I see it is.

Q. That before the Norwegian Consul you swore that your speed at 3:10 was four knots, don't you?

A. I said four knots, yes.

Q. Under oath, didn't you? A. Yes, sir.

Q. And now you say that is was three knots, at 3:10? A. About three knots, I say.

Q. Now you say that instead of being nearly at a standstill at 3:10, she was nearly at a standstill at 3:14, is that correct?

A. Well, I said she was not at rest yet.

Q. At 3:10 she was nearly at a standstill; that is your statement?

A. A ship like that would carry her headway very long, and I did not want to blow the two whistles—

Q. (Intg.) I am not asking you about the two whistles. A. Before she was at rest.

Q. Just answer my question. You will have plenty of time when your counsel gets you to straighten this all out, if it can be straightened out by counsel on redirect examination.

Mr. McCLANAHAN.—I do not think it needs straightening out. That is what he has testified to.

Mr. DENMAN.—I think it will have to be straightened out, if it can.

Mr. McCLANAHAN.—We look at it from different standpoints. I will not waste much time on redirect examination on this proposition.

(Testimony of Captain Olaf Lie.)

Mr. DENMAN.—Q. Now, Captain, let me ask you: How did you figure [223—103] the distance between 3 o'clock and 3:15 as being one knot, which you traveled?

Mr. McCLANAHAN.—The "Selja's" speed, the distance that she traveled—

Mr. DENMAN.—Q. I will give you a piece of paper and let you figure that, because I would like to have it. A. Yes, from 3 to 3:05—

Mr. McCLANAHAN.—Q. Answer the question, can you?

A. Yes. From 3 to 3:05,—I will get that in—I will now figure that out and hand it to you. (The witness figures.) I take her average speed as four knots between 3 and 3:05.

Mr. DENMAN.—Q. Why do you make it four knots?

A. Well, because I only take a kind of medium of it, and call it four knots.

Q. I know; but if it would be averaged, it would be four and a half, wouldn't it?

A. It would not be quite an average.

Q. All right.

A. You see the curve is not straight.

Q. I know the curve is not straight.

A. I take the average feet, which would be about 2025, about that.

Q. How do you get that?

A. Four knots; that means about 405 feet per minute; that is, 405 feet per minute, about.

Q. Now you have testified here that in the first

(Testimony of Captain Olaf Lie.)

minute and a half she would still hold her six knots speed that is correct, is it not? A. Yes, sir.

Q. All right. Then make that 3 to 3:06½.

A. No. I take that from 3:05 that is a medium of that up to 3:05. This is from 3 to 3:05. Then from 3:05 I take the medium of that.

Q. All right.

A. From 3:10 I stated she would travel about 1015 feet; that is what I put down,—3:10 to 3:15. [224—104]

Q. Now figure out from 3 to 3:05 on there, if you will, please, Captain, 3 to 3:05—just put down here 3:00 to 3:05. A. 3 to 3:05.

Q. 6 knots. A. 6 knots.

Q. 3040 feet. A. 3040 feet; that is correct.

Q. 3:05 to 3:06½, at 6 knots; what would that figure? A. I did not figure that way.

Q. Well, I am figuring that way now. You can figure my way, if you please, you are an expert.

A. I will figure that and see how much that will be. 6 knots is,—it is about 3950 feet—about 3952 feet.

Q. How many feet? A. 3952 feet, about.

Q. No, no; that is not right. You have only given the minute and a half.

A. That is a minute and a half, 608 feet per minute.

Q. A minute and a half would be what?

A. 3952 feet.

Q. That is, you are giving it from 3:00 to 3:06½?

A. Yes, sir.

Q. Just put your speed in there.

(Testimony of Captain Olaf Lie.)

A. That is it. That is from 3:00 to 3:06½.

Q. Now give me the distance that you would cover between 3:05 and 3:06½—it would be 912.6, would it not? A. Yes.

Q. Add those two figures. A. It is 912.6.

Q. Just put that in your column here, put it in here (pointing). A. Yes, sir.

Q. Now, you have testified at 3:06½ she would still be going at 6 knots; that is correct, isn't it, in your opinion?

A. That is my opinion. I could not say exactly.

Q. But if she were going, if that is your opinion, at six knots [225—105] at 3:06½, what would be her speed between 3:06½ and 3:10, with the push of her machinery at 20 revolutions?

A. Well, the only thing I can say—

Q. (Intg.) I am not asking you that.

Mr. McCLANAHAN.—Let him answer the question.

A. (Contg.) That these questions are answered practically, not exactly, theoretically, because it is very difficult to answer them theoretically. This is taking the medium of the distance which I know is not a half a ship length out.

Mr. DENMAN.—Q. I am very glad to hear that. But you are a theoretical man and I am therefore asking you, on that ground; you have qualified as an expert. I want you to follow your theories out.

A. I have done so.

Q. You say at 3:06½ she would still have a six knots speed, don't you?

(Testimony of Captain Olaf Lie.)

A. Yes, sir,—I said she probably would.

Q. You still think so, don't you? A. Yes, sir.

Q. Then you agree with me that up to 3:06½ this distance was covered, don't you (pointing)?

A. Yes, sir.

Q. That distance is 3952 feet. A. Yes, sir.

Q. At 3:06½, and she was then going six knots. Now what did she go if she was going at six knots at 3:06½, what distance would she cover between that time and 3:10, with the engines pushing her at the rate of 20 revolutions?

A. Well, I could not say more exactly than I stated at 3:06½. The distance I stated from 3:05, to 3:10, I stated, as near as can be, 2025 feet.

Q. I am not now asking for your theory. I am asking you to follow out my theory. I have got a right to have theories just as you [226—106] have, and I have got a right to base theories on your testimony, and when you tell me that at 3:06½, in your opinion, she was going six knots, I have a right to follow that down to the end, until you withdraw it, the statement that she was going 6 knots at 3:06½.

A. I do not withdraw anything. I said I thought so.

Q. You were there, of course. A. Yes, sir.

Q. You were looking over the side now and then, weren't you?

A. Yes, but you cannot say exactly what her speed is by looking over the side, except you log it.

Q. You cannot.

A. No. I said about. I have never said that she

(Testimony of Captain Olaf Lie.)

was going exactly at any rate; I said about. The distance run from 3:00 to 3:15 is about 100 feet more.

Q. But she was going at a speed of six knots at 3:06½, and she began to fall off at the same time, didn't she, under your theory?

A. Yes, sir, she would fall off.

Q. How soon would she lose her six knots speed?

A. Well, I don't know.

Q. After 3:06½?

A. She may be down to, perhaps, her speed in three or four minutes. I could not say exactly as to that.

Q. Just take it three minutes then after 3:06½.

A. If I take this as 3 that will be 450; 3½ that will be—I can figure it that way, if you want to—three times that—that will be 2400 feet.

Q. 2400 feet, between 3:06½ and 3:09½?

A. About 1350 feet up to 3 knots—I did not go down—

Q. (Intg.) Wait a minute.

Mr. McCLANAHAN.—Why don't you let the witness answer? [227—107]

Mr. DENMAN.—He makes his answer. He is a quick-minded man. I am quite clear-minded too, but I may not be so quick-minded, and both of us are chasing one another on this thing.

Q. Now, Captain, what do you make the distance between 3:06½—

A. (Intg.) The distance I made out—

Q. (Intg.) Wait a minute, Captain—the distance between 3:06½ and 3 minutes after that, when you had lost the impetus of your 6 knot speed, what do

(Testimony of Captain Olaf Lie.)

you make the distance, according to your calculation?

A. The only way I took that—

Q. (Intg.) What do you make the distance, according to your calculation, the total distance?

A. About 2400 feet, approximately.

Q. That would be then the distance between 3:06½ and 3:09½?

A. No, that is from 3:05—that is taken from 3:05.

Q. I am asking you now the distance—

A. (Intg.) That is it; that would be—

Q. (Intg.) Let me get through. I am now asking you the distance covered by the vessel between 3:06½ and 3:09½, during the three minutes in which you say she would lose her six knots speed.

A. I did not say she would lose it by 3:09.

Q. That she would lose her six knots speed and drop down to three knots; give me the distance.

A. I will take it approximately four knots, because I could not say exactly—400 feet—how long was it, from 3:06½?

Q. You said in three minutes.

Mr. McCLANAHAN.—Q. Give him the answer, Captain.

A. Three minutes—about 1200 feet, approximately, she would travel.

Mr. DENMAN.—Q. She would travel 1200 feet. All right. I have got it after [228—108] all this time. We have now gotten her speed between the distances, about.

Mr. McCLANAHAN.—That is your theory.

The WITNESS.—That is your theory.

(Testimony of Captain Olaf Lie.)

Mr. DENMAN.—You will see whether it is my theory, or whether it is the logical following out of your theory.

Q. Now, we have got the distance as estimated by you between 3:06½ and 3:08½, presuming that she was traveling at the rate of six knots at 3:06½, about 1200 feet. That is correct?

A. In three minutes, 1200 feet, yes.

Q. And at the end of three minutes, in your opinion, she would have lost the push of her six knot momentum? A. I think so.

Q. And she would be down to her three knot momentum? A. Yes, sir.

Q. Now, in your opinion,—that is, in your present opinion, she was going three knots at 3:10; that is correct, isn't it? A. About that.

Q. And she was going that or she was almost at a standstill then?

A. She was going at three knots.

Q. And how long would it take her, then, to drop that three knot speed, according to your theory?

A. I think she would drop that—I think she would be done—that is what I think; I cannot say exactly what time she would absolutely be done, but I think she would be done in about five or six minutes.

Q. Five or six minutes?

A. Five or six minutes.

Q. About 5 minutes; that is what you stated?

A. Yes.

Q. Now, Captain, in that 5 minutes she would travel 1015 [229—108] feet, would she not?

(Testimony of Captain Olaf Lie.)

A. About that.

Q. Let us make a calculation; according to your last theory you have 3040.

A. No—I have got three knots.

Q. Let us summarize your entire testimony. Now you said that from 3 to 3:05, she would go 3040 feet, would she not? A. Yes—hold on.

Q. And that from 3:05 until 3:06½ she would go 912 feet, would she not? A. Yes, sir.

Q. And from 3:06½ to 3:09½ she would cover 2400 feet, would she not—1200 feet? A. 1200 feet.

Q. And then in the half minute between 3.09½ and 3:10 she would cover what?

A. That would be 50 feet.

Q. 50 feet?

A. Three knots, that would be 300—no, it would be 150 feet.

Q. Put in 150 feet. A. That is half a minute.

Q. 150 feet; is that correct? A. Yes, sir.

Q. Now, that is what she has covered up to 3:10, isn't it? A. Yes, sir.

Q. Then between 3:10 and 3:15 she would cover 1015 feet, about? A. About.

Q. That is your figure here.

A. But I will say that she was done then; I got to say she is done; well, I will give her 900.

Q. You gave her 1010 up here (pointing).

A. Yes. I will give her more. I just gave her that because I do not want to have the distance too short.

Q. You think that is a fair estimate, don't you?

(Testimony of Captain Olaf Lie.)

A. Yes; I think so.

Q. We will let it stand at 1015—isn't that taking your own [230—110] figures.

A. No. I would not take that as my own figure because you have to base it on that she is at rest at 3:15, and that would be about 750 feet, and the—

Q. (Intg.) One moment, Captain. I understand you to say that at 3:10 she was going three knots, didn't I? A. Yes, sir.

Q. And that you estimated here that between 3:10 and 3:15 she travelled 1015 feet.

A. That is what I gave.

Q. That is what you swore to yesterday, is it not?

A. Yes, I swore to this, too.

Q. I am not talking about that; I am talking about your figure now. A. Yes.

Q. You made a separate figure for from 3:10 to 3:15? A. Yes, sir.

Q. And you swore that between that time she went 1015 feet? A. I did not say exactly.

Q. But your estimate was that? A. Yes, sir.

Q. You estimated that carefully, didn't you?

A. This is not estimated absolutely carefully, because we did not do it carefully enough.

Q. What do you think you covered between that time?

A. I think she covered between 900 and 1000 feet—about 900 or 1000 feet.

Q. You said yesterday, and the statement you gave in court yesterday was 1015 feet.

(Testimony of Captain Olaf Lie.)

A. Yes. Put that down, that is all right. I do not care.

Q. Put it in here, 1015 feet.

A. Well, we must have that clear—

Q. (Intg.) Hold on.

A. No, that is all right; we will be all bankrupt before we leave. [231—111]

Q. We will find out who will be bankrupt when we get through with the case.

A. I did not mean you—I cannot figure that way.

Q. 1015.

A. That is 6317 feet. That is 237 feet out.

Q. What you mean to say is about 6317 feet?

A. Isn't it?

Q. Yes. A. Yes, I think it is correct.

Q. That is the distance that you travelled according to your latest estimate between 3 o'clock and the time of the collision, is it?

A. Well, but I cannot measure that on the chart. That is very hard to measure.

Q. But I mean that is so according to these figures?

A. That is according to the figures we figure on now.

Q. The distance you travelled is somewhere between those figures, the figures you gave?

A. Yes, about that.

Q. And all of these estimates I have gotten here are based on your own theories, aren't they?

A. Based on my calculation. It is very hard to find a theoretical matter like this because it has got

(Testimony of Captain Olaf Lie.)

to be taken out of experience.

Q. Well, of course, you never measured the distance so as to have any experience in them in a fog—you never measured by actual measurement what the "Selja" did with that cargo, and with that sea and with those weather conditions.

A. I logged the distance.

Q. I mean you never have measured her distance exactly under those exact conditions before, have you—that is impossible, isn't it?

A. I have not measured it, but I said that she was travelling one knot from 3 to 3:15, and I found that according to my opinion, one knot. It may be a ship-length or a half a [232—112] ship-length farther, I could not say as to that.

Q. But, as a matter of fact, when you come to actually measure them according to your own theory, it gives 6317 feet; that is correct, is it not?

A. Well, that is the measurement we got here today, but I said from the first start I have not figured that way. I said she travelled about one knot.

Q. Captain, I wish you would prepare for in detail as an expert each step in the calculations that you made in determining all the results that you have testified to heretofore; it will probably save me the trouble of going through all this on cross-examination. You have got the results; just prepare a paper showing what the speed of the "Beaver" was at the various times taken in each one of these questions and answers from the transcript of the testimony of Mr. McClanahan, and work out for me each one of those

(Testimony of Captain Olaf Lie.)

problems, giving me all the figures, so that I can have them and put them in the record, and that will avoid all this controversy here.

Mr. McCLANAHAN.—Let us get that clear. The figures you want pertain solely to the "Beaver," do they not?

Mr. DENMAN.—Yes.

Mr. McCLANAHAN.—Because you have covered the "Selja" up to 3:15?

Mr. DENMAN.—Yes.

Mr. McCLANAHAN.—The others pertain to the "Beaver"?

Mr. DENMAN.—Yes.

(An adjournment was here taken until Wednesday, June 14th, 1911, at 10 A. M. [233—113]

Wednesday, June 14th, 1911.

Mr. McCLANAHAN.—Unless you are willing to make the admissions as to the draught fore and aft, and corresponding displacement at that draught on the trial trip of the "Beaver," and the pitch of her propeller, it being 22 feet 3 inches as shown by the builders' blue-prints which you have just submitted to me, as being correct, I will have to call Mr. Frey again.

Mr. DENMAN.—What do you want to call Mr. Frey for?

Mr. McCLANAHAN.—If you make the admissions I won't have to call him.

Mr. DENMAN.—What is the purpose of calling him, what do you want to show?

Mr. McCLANAHAN.—I want to prove by him the

(Testimony of Captain Olaf Lie.)
facts that I want.

Mr. DENMAN.—He has already testified he has not any personal knowledge, and all his knowledge is contained in the blue-prints submitted by the builders. We are willing to admit that.

Mr. McCLANAHAN.—Willing to admit what?

Mr. DENMAN.—All of the knowledge is contained in the blue-prints submitted to you from the builders. What further do you want to bring out by him?

Mr. McCLANAHAN.—If you won't admit the facts I will have to cross-examine Mr. Frey on the matter of his knowledge.

Mr. PAGE.—Haven't you already examined him, Mr. McClanahan, and hasn't he said that he has acted upon or in the habit of acting upon it, one way or the other?

Mr. McCLANAHAN.—I have asked Mr. Frey to produce the reports from the builders showing that data.

Mr. DENMAN.—He has sent you that.

Mr. McCLANAHAN.—I will examine him on that unless you make [234—114] the admission of facts as stated on this. What is the use of tying this matter up?

Mr. DENMAN.—We will admit that Mr. Frey will testify that is what appears on these documents, that the documents were given him by the builders, and that he supposes the builders' representations to be true, though he does not know of his own knowledge.

Mr. PAGE.—That is all he can testify to.

(Testimony of Captain Olaf Lie.)

Mr. McCLANAHAN.—Why not admit the truth of it? What is the object of it?

Mr. DENMAN.—We do not know. That is all we can admit.

Mr. McCLANAHAN.—That is all you can admit?

Mr. DENMAN.—Not one of us was present at the time these measurements were made at the time of the trial trip, and no one has knowledge on the subject except what I have given you.

Mr. McCLANAHAN.—Don't you know that Mr. Frey has sworn to data of the "Beaver" on her trial trip?

Mr. DENMAN.—He has sworn that he verily believes it to be true.

Mr. McCLANAHAN.—I want him to swear that this very data is verily true which he got from the same source.

Mr. PAGE.—That is what Mr. Denman has said.

Mr. DENMAN.—If he has a belief it is true, that is not saying it is true, because a man believes it on hearsay evidence.

Mr. McCLANAHAN.—There is no use arguing it.

Mr. PAGE.—Read what Mr. Denman has proposed.

Mr. DENMAN.—If it is not sufficient then I withdraw it and ask directly what you want in the way of testimony from Mr. Frey, and anything that he can testify to we will admit here.

Mr. McCLANAHAN.—I will tell you what I want. I want it admitted that the pitch of the "Beaver's" propeller on the trial trip was [235—115] 22 feet,

(Testimony of Captain Olaf Lie.)

3 inches; that her draught forward at that time was 13 feet 9 inches; her draught aft at that time was 17 feet; that her corresponding displacement was 4400 tons. I want that admission.

Mr. DENMAN.—We will admit that Mr. Frey believes, on hearsay testimony, and from the data in the plans now in the possession of libelant's counsel—that he verily believes that to be true, though he has no knowledge on it other than hearsay of the plans.

Mr. McCLANAHAN.—And that the plans were furnished to the respondent—

Mr. DENMAN.—And that the plans were furnished to the respondent by the contractor who built the ship.

Mr. McCLANAHAN.—By the Newport News Shipbuilding and Drydock Company, the builders of the "Beaver"?

Mr. DENMAN.—Yes.

Mr. McCLANAHAN.—As the data for the "Beaver" on her trial trip. That is all I want.

Mr. PAGE.—Was furnished as the data of the "Beaver" on her trial trip; that is correct.

Mr. McCLANAHAN.—That is admitted.

Mr. DENMAN.—It is admitted it was furnished by the Newport News Shipbuilding and Drydock Company, to the owners of the "Beaver."

Mr. McCLANAHAN.—I think that will be sufficient. [230—116]

OLAF LIE, cross-examination resumed.

The WITNESS.—Before we commence to-day, I would like to correct a statement which I made day

(Testimony of Captain Olaf Lie.)

before yesterday, which is not correct. I thought it over and told Mr. McClanahan about it; it is not correct.

Mr. DENMAN.—Yes, Captain.

Mr. McCLANAHAN.—Q. What is the statement, Captain?

A. It is that the "Selja" was keeping her speed for one and a half minutes after her engines were reduced from 40 revolutions to 20 revolutions; you see she would gradually commence to decrease, and common sense will show she could not keep it up one and a half minutes, but under the press of the cross-examination I just said so, and I think it appears in the evidence.

Mr. DENMAN.—Q. Well, now, Captain Lie, I did not ask you that question, did I? You offered it yourself voluntarily under cross-examination, didn't you?

A. I think you asked how long did she keep—how long she would keep the six knots.

Q. Very well, we will examine that. However, I will take that up later on, Captain. Is that all?

A. That is all.

Q. Now, Captain Lie, you gave us a very long account, and apparently very accurate account of the history of your seafaring life from your early boyhood down to date; of course, you know I cannot cross-examine you on that, and that account seems to give evidence of a very remarkable memory. Is there anything in that history of your life that differs from any other sea captain who is constantly at sea

(Testimony of Captain Olaf Lie.)

over the period of years that you were over—what you have described? [237—117]

Mr. McCLANAHAN.—I object to that as immaterial.

A. I do not know if it is exactly anything else except another captain might not go through exactly the same as I went through.

Mr. DENMAN.—Q. All you meant by that long history was you had been to sea practically continuously during that period, excepting you had your vacations and excepting your taking your examinations in the school, that you were continuously at sea pursuing your vocation—that was all that was, was it not? A. Yes, sir.

Q. Do you mean to say that just out of your research into your memory you were able to give all these facts of arrival and departure of yours?

A. Yes, sir.

Q. It was through a long period of years, was it not?

A. I gave some data, not all; I gave what I remembered.

Q. Now, taking up the question of the libel in the freight case, article 7. You say you read that over carefully, and you say it gave an accurate statement of the facts as you then remembered them,—

Mr. McCLANAHAN.—The 7th article, did you say?

Mr. DENMAN.—Q. Article 7 of the freight libel. That is the article in which the captain had an interest, because it described the maneuvers of the ship.

(Testimony of Captain Olaf Lie.)

On line 5, of page 5, I find the following: "At about 3 o'clock P. M. a deep distant whistle was heard in an ascertained position dead ahead of the 'Selja' and apparently a long way off, which afterwards proved to be that of the aforesaid steamship 'Beaver.'" We will stop there. And at line 14—"The whistle of the 'Beaver' was repeated at intervals of about a minute but seemingly nearer, until at about [238—118] 3:05 P. M. the 'Selja's' engines were put at slow speed," etc. Now, you say, Captain, that the whistle was heard in an ascertained position dead ahead of the "Selja." Was the whistle of the "Beaver" at any time on that day in fact dead ahead of the "Selja"?

A. She appeared to me to be right ahead at the first whistle.

Q. Answer my question. Repeat the question to the captain.

(The last question repeated by the reporter.)

Q. In fact.

A. No—if he kept his course as stated in his evidence.

Q. All this computing that you have made as to the speed of his vessel is based upon the course that he gave, is it not?

Mr. McCLANAHAN.—Which vessel?

Mr. DENMAN.—Q. Of the "Beaver."

A. Yes.

Q. So you presume for the purpose of giving his speed that the courses are correct?

A. I presume that is correct.

(Testimony of Captain Olaf Lie.)

Q. Have you any reason to believe that the "Beaver" coming from the Golden Gate and going north would have any reason to be dead ahead on a course direct from Point Reyes to 2½ miles south of the lightship, when you were on that course—have you any reason that she would be dead ahead of you at any time when coming out of North Channel?

A. We did not steer 2½ miles off the lightship, to my knowledge.

Q. How far did you steer off it?

A. I did not know at that moment, exactly; I did not measure the distance at that moment.

Q. You say that it was not 2½ miles; how far was it? A. It was not 2½ miles.

Q. How far was it?

A. We measured it day before yesterday. I think that I measured it then to be a mile and a half; but I did not [239—119] measure it at the time. I did not measure that at the time when I was in the chart-room.

Q. What you believed you wanted to get to was the lightship, was it not? A. Yes, sir.

Q. And you did not measure your course to see whether you were going to the lightship; is that correct?

A. I measured the course to go to the lightship but I did not know the exact distance I went because I expected a pilot at the other side of the light.

Q. You did not expect to go a mile and a half or two miles the other side of the lightship, did you, coming down the coast?

(Testimony of Captain Olaf Lie.)

A. I shaped the course to the lightship, according to my chart, as near as it could be, and I did not, as I said, take any exact distance of the lightship at that moment.

Q. You had no purpose in taking a course of south 65 east other than to get to the lightship, did you?

A. To get to the pilot station.

Q. You said to the lightship, did you not?

A. Yes, to the lightship.

Q. Now, did you tell the officer on the bridge to steer straight for the lightship?

A. I told him to keep the course, I did not tell him about the lightship.

Q. Then if he said in his testimony that you told him to steer straight for the lightship, he is incorrect, is he?

A. It is not incorrect; I told him to keep south 65 east.

Q. Straight for the lightship. You did not use those words to him, then?

A. Well, maybe I did; I would not say.

Q. Well, you may have done it, Captain. Now, I will come back to [240—120] this question again: Do you believe that the "Beaver" was in fact at any time prior to 3:10 dead ahead of the "Selja"?

A. Practically dead ahead, yes.

Q. Now, what do you mean by practically dead ahead?

A. Well, that may be a few degrees on either side, as you can locate it in a fog.

Q. Oh, then, you cannot locate accurately in a fog

(Testimony of Captain Olaf Lie.)

up to a question of two points on your compass; is that correct? A. I can locate it, yes, I can.

Q. How did you locate it, dead ahead, or two points on your port side?

A. I located the first whistle practically dead ahead.

Q. Now, was the "Beaver" at that time dead ahead?

A. She seemed to me to be at that time about dead ahead.

Q. Was she in fact in the water dead ahead?

A. I don't know—

Q. You don't know?

A. (Contg.) —if she was—she appeared to be dead ahead.

Q. She was in fact on the course she sailed dead ahead?

A. No. On the chart I laid it out on she appeared to be one and a quarter points on the port bow.

Q. So that at the time you thought she was dead ahead she was as a matter of fact a point and a quarter on the port bow; is that correct?

A. If Captain Kidtsen's evidence is true.

Q. You have no reason to believe that that portion of his evidence is not true, have you?

A. That is the only thing I have.

Q. Is not that where she would reasonably be coming out of the North Channel?

A. Yes, if he came out of the North Channel.

Q. All right. So your idea of a whistle that is in an ascertained [241—121] position is a whistle that is anywhere in front of you over a radius of one

(Testimony of Captain Olaf Lie.)

and a half to one and three-quarters points. Is that correct?

A. It is not only the bearing we ascertained, but we ascertained approximately the distance off, that she was away out of danger of collision—

Q. (Intg.) I am not talking about that. I am talking about—just confine your mind to this. I want to get at what you mean by an ascertained position dead ahead of the "Selja." Now, as I understand it, your definition of an ascertained position is a position anywhere within a radius of one and a half points of dead ahead; that is, a radius of one and a half points between dead ahead and port one and a half points; that is correct, is it?

A. It depends on the distance off.

Q. Well, do you mean to say that if you do not know what distance she is off that is an ascertained position? You did not know what distance she was, did you?

A. I ascertained her to be about right ahead; that is what I said.

Q. Well, but she was not at that time right ahead, was she?

A. She proved not to be, but I laid it off on the chart—

Q. (Intg.) So then you ascertained the position incorrectly at that time?

A. Probably a little, not much.

Q. You did ascertain it a point and a half incorrectly, didn't you?

A. A point and a quarter, I said, to the utmost.

(Testimony of Captain Olaf Lie.)

Q. How many degrees is that? A. 15.

Q. 15 degrees? A. Yes.

Q. We will examine your chart later on and see as to the accuracy of that. Now at that time you did not know whether it was the whistle of a steamer which was say four miles distant, or the [242—122] whistle of a fog-horn at the entrance to the Golden Gate; that is correct, isn't it?

A. The fog-horn off Golden Gate just came into my thought.

Q. I say, you did not know whether or not the whistle was the whistle of a steamer or the whistle of the fog-horn off Golden Gate; that is correct, isn't it? A. That is correct; I did not know exactly.

Q. Well, then, your idea of a definite ascertained position is any position between four and a half miles and twenty miles distant; is that correct?

A. Well, you can not absolutely ascertain the exact distance; it is impossible by the first whistle to ascertain the exact distance.

Q. Well, did you know up to 3:05 whether it was a ship four miles away or a fog-horn twenty miles away? A. I have said that—

Q. Did you know? Answer that question, did you know at 3:05?

Mr. McCLANAHAN.—Answer the question, and then make your explanation, Captain.

A. No, I did not.

Mr. DENMAN.—Q. Then—

Mr. McCLANAHAN.—Wait a minute. Now, make your explanation, Captain.

(Testimony of Captain Olaf Lie.)

Mr. DENMAN.—Q. That is all right.

A. But, as I said, I commenced to time it, because the whistle sounded so far away to me, that it was still in my thought that it just came into my mind of the fog-whistle off of Golden Gate.

Q. Then you would say—would you still claim that this whistle was in a definite ascertained position at 3:05?

A. The bearing was definitely ascertained, yes. [243—123]

Q. The bearing of the whistle, but the distance from you, was that definitely ascertained at 3:05?

A. It was not exactly, but it was absolutely out of danger of collision.

Q. I am not asking you that now. I am asking you with regard to the ascertainment of the position of the ship. I do not want you to argue the Tellus case into this record, Captain.

Mr. McCLANAHAN.—That is not a fair statement.

Mr. DENMAN.—It will be shown to be before I get through.

Q. Now, Captain, do you claim at 3:05 o'clock that the position of the "Beaver" in the water was ascertained to you?

A. The bearing of it was ascertained.

Q. Repeat the question.

(The last question repeated by the reporter.)

A. As good as it could be in the fog.

Q. Well, now, what do you mean by that. Did you know where she was in the water?

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(Testimony of Captain Olaf Lie.)

A. I did not know exactly the distance.

Q. Did you know within 15 miles of the distance at 3:05?

A. I did not think of the distance at that time, no, but I had that in my mind, as I said, Golden Gate.

Q. Did you know within 15 miles of the distance at that time where she was?

A. Well, I could not say that. That is the only thing I can say, she proved to be nearer than I thought.

Q. She proved to be much nearer than you thought, about 15 miles nearer—that is correct?

A. I could not say the distance nearer, because I have not measured it.

Q. It is over ten miles, isn't it?

A. I don't know.

Q. Well, it is over ten miles, isn't it Captain? [244—124] A. Perhaps it is.

Q. Now, Captain, you have just stated that—I am now quoting—"The whistle of the 'Beaver' was repeated at intervals of about a minute but seemingly nearer, until at about 3:05 P. M. the 'Selja's' engines were put at slow speed." Now, the reason that you put the engines at slow speed, then, was because the whistle seemed nearer; is that correct?

A. No; because the circumstances of the case had changed.

Q. Was not the fact that the whistle seemed nearer one of the circumstances of the case?

A. It did not at that time really—that is a circumstance, right enough—

(Testimony of Captain Olaf Lie.)

Q. Then it was a fact that the whistle seemed nearer to you?

A. It is a fact, it must be nearer.

Q. I am not asking what must be, I am asking what seemed to you?

A. It seemed to be a little nearer.

Q. It seemed to be a little nearer? A. Yes.

Q. Between 3:00 and 3:05 you claim that you went about 3000 feet, don't you? A. 3000 feet, yes.

Q. About 3000 feet?

A. 3040 feet, I think it was.

Q. And the distance to the fog-horn at the Golden Gate was about 21 or 22 miles, was it not?

A. I have not measured that; I should say somewhere around 20 miles.

Q. Now, did you imagine that in that dense fog travelling 3000 feet would make the sound of the fog-horn seem any nearer? A. It is half a mile.

Q. Do you suppose that a half a mile in 20 miles in that dense fog would make a fog-horn seem any nearer—coming nearer and nearer?

A. Because we have heard the whistle so many times that it sounded to me—you know that we have heard it three or four times,—and it [245—125] appeared to me to be nearer.

Q. That indicated to you that the fog-horn was approaching you or that you were approaching the fog-horn? A. We were approaching it.

Q. At an appreciable rate—that is correct?

A. I said we were approaching the fog-horn, yes.

Q. All right. Now, Captain, you said as nearly

(Testimony of Captain Olaf Lie.)

as can be determined in the fog. Do you mean to say it is any more difficult to determine the location of sounds in a fog, than in clear weather?

A. No, it is the same, the sound. But I mean where you locate it in daylight you see it.

Q. In other words, the fog does not have any effect at all, according to your theory, on the transmission of sound through the air? A. No, sir.

Q. It does not make any difference whether the fog is thick or thin?

A. It does not, to my knowledge.

Q. To your notion, you can hear it just as well, just as certainly and locate a whistle in a fog as you can in a dark night with clear weather?

A. In a dark night and clear weather we seldom hear the whistles except they are close to us, but I should say that the whistle in the fog would be heard exactly the same as in a clear day.

Q. As in a clear day? A. Yes.

Q. You are willing to swear that is your idea of fog conditions? A. That is my idea of it.

Q. Was not there something unusual about the condition of the fog signal from Point Reyes on that day? A. Nothing unusual.

Q. What about hearing it from the north as you described—don't [246—126] you have some difficulty in hearing it—didn't it come suddenly?

A. Yes, it came suddenly.

Q. And you did not expect that, did you?

A. The only thing, the sailing directions say to the

(Testimony of Captain Olaf Lie.)

northward of it it is seldom heard, something like that.

Q. Of course, the whistle is only blown in the fog, isn't it? A. Only blown in the fog, yes.

Q. Now, you attended a nautical school, I understand? A. Yes.

Q. Were you never taught there that there was danger in relying on the direction of sounds in the fog for locating your position?

A. The only thing they said on sailing for a point where it was a fog signal, that sometimes it could not be relied upon owing to the deflection of the land, something like that.

Q. Owing to the deflection of the land. You never heard of such a thing as the fog itself deflecting the sound? A. No, sir.

Q. In all your experience at sea, over all these years, you never encountered that experience in a fog; whenever you located sound in the fog it was always where you thought it was; is that correct?

A. Yes, sir.

Q. Now, Captain, as I understand it, except of course at 3:05 P. M. of this day, you heard the whistle of the "Beaver" dead ahead, when, as a matter of fact she was a point and a half or two points on your bow; is that correct or not?

A. I did not hear it at 3:05 dead ahead.

Q. You did not? A. No.

Q. You are sure of that, are you, Captain?

A. It was a little on the port bow. [247—127]

Q. At 3:05 she was not dead ahead, at 3:05—that is

(Testimony of Captain Olaf Lie.)

what you was to swear now?

A. I said it was a little on the port bow, when we commenced to time it.

Q. When you commenced to time it, it was a little on your port bow? A. Yes.

Q. Well, at that time you did not know the distance within ten miles any way; that is correct, isn't it?

A. It proved to be that she was not the distance that I thought she was, which was in my mind.

Q. Now, you say here: "That after timing said whistles, and discovering therefrom by this means at about 3:10 P. M. that said whistle was that of an approaching steamer, the 'Selja's' engines were stopped." That is correct, isn't it? A. Yes, sir.

Q. Now, Captain, you remember testifying yesterday that when you said before the Norwegian Consul that you were going at four knots at 3:10, that what you were saying was that you had been going at an average of four knots between 3:05 and 3:10. You remember stating that yesterday, don't you?

A. Yes.

Q. Now, I want to read to you your testimony before the Norwegian Consul, and ask you whether that is a conceivable construction of it: "and at 3:10, when I was certain that it was a steamer's whistle, I stopped the engine, but the ship had then about four knots, when I stopped her, and she was just having steerage way after up to 3:15." Now, Captain, you do not mean to tell me that when you made that statement that you were then testifying as to the average speed between 3:05 and 3:10, do you?

(Testimony of Captain Olaf Lie.)

A. I might have said so the day before yesterday, but slow speed, [248—128] to my opinion, we don't know exactly what slow speed is; but when I know half speed is six knots, slow speed would be somewhere around three and a half and four knots,—if I don't know the revolutions.

Q. Well, then, your testimony was on this day that she was going at the rate of four knots at 3:10 o'clock. That is correct, is it not? A. I have said that,—

Q. And now you want to stand by that as a statement that you then made? That is correct, is it?

A. Well, I said that because I did not know exactly at that moment what slow speed was. I said about; I did not say exactly four knots; I said about.

Q. All right. Now, you have stated in your log three days before that that she was nearly at a standstill at 3:10, haven't you?

A. It was in the log, yes,—it was in the log.

Q. You signed the log, didn't you?

A. I signed the log.

Q. Signed it twice? A. Yes.

Q. You also read it to the men, didn't you, yourself?

A. The chief officer read it, as he was finishing with it.

Q. Don't you remember the testimony of the officers that you read it to the men?

A. I might have read it to the men.

Q. That you read it to the men?

A. The chief officer read it to me, and I read it over to the men again.

(Testimony of Captain Olaf Lie.)

Q. So the chief officer read it to you, and you read it to the men? A. Yes.

Q. Now, Captain, you have stated certain inferential, or made certain inferential statements regarding this rule 16. Will you please state the rule, as you understand it to be in Norwegian, and then state the rule as you understand it to be in English? [249—129]

A. Do you want it to be translated into English from Norwegian?

Q. From Norwegian.

Mr. McCLANAHAN.—Q. He wants first your translation of it from Norwegian into English, and then he wants your English understanding of the rule. Is that right, Mr. Denman?

Mr. DENMAN.—Yes.

Mr. McCLANAHAN.—Give first your Norwegian.

Mr. DENMAN.—Q. Before we go into that, I want to ask you concerning certain testimony that you gave before the United States Inspectors.

> "Inspector BOLLES.—What are your rules in regard to hearing whistle forward of the beam? A. International rules. Q. What is that rule, do you recollect? A. As soon as you hear forward of your beam you have to slow down your engine and, if necessary, stop, and navigate carefully until the danger is over."

You recollect making that statement, do you?

A. Yes.

Q. Is that your idea of the rule?

A. Will you let me explain?

(Testimony of Captain Olaf Lie.)

Q. Is that your idea of the rule?

A. Can I explain?

Q. First answer if it is your idea—if it is or is not.

A. I could not at that moment translate it, because I have not had an English rule in my hand, and at that moment I could not translate it exactly into English. But let me explain it, that the first thing there is only applied to the first part of the rule, that he should slow down if the circumstances of the case or conditions requires there to be moderate speed. But the last port, it said that if you have located a whistle in a certain place and far away, it is not necessary to stop, and if you have not located [250—130] it it is necessary to stop.

Q. That is, if you have not located it, it is necessary to stop?

A. If you have not located it then, it is necessary to stop.

Q. If you have not located the place where the whistle is it is necessary to stop?

A. At that moment, if you have not located it, where it is, if it confuses and you don't know where it is, well, then, it is necessary to stop; that is the only way I can make an explanation of that.

Q. Your idea of the rule is if you do not know where the vessel is, you are to go ahead, but if you do know you are to stop; is that it?

A. I did not say so. Read my answer first, will you, please?

(The last answer repeated by the Reporter.)

A. That is it. Read the question now.

(Testimony of Captain Olaf Lie.)

(The last question repeated by the Reporter.)

A. That is the opposite.

Q. That is the opposite? A. As you said it.

Q. It is the opposite; you say if you do know where she is you are to go ahead; that is it? Is that correct? A. Yes.

Q. If you do not know where she is you are to stop; is that it? A. Yes.

Q. Now, in this case, you did not know within 15 miles or 10 miles where the "Beaver" was at the time you heard a whistle, did you?

A. It proved to be that she was not in the distance that was in my mind.

Q. So that you had made an erroneous ascertainment as to her position at that time—as to her position in the water at that time?

A. It was not exactly as it proved to be, no.

Q. And you did not stop your engines for ten minutes after you [251—131] heard the whistle; that is correct?

A. I stopped it at 3:10, yes—I would not say exactly 10 minutes—it might have been nine. I did not look at the clock exactly at the time.

Q. Might it have been 9?

A. It might have been 9½ or 10, although I said it was 3 o'clock—but the time is taken from the bearing of the light I took,—it was just after the taking of the bearing.

Q. That was at 3 o'clock? A. Yes, sir.

Mr. HENGSTLER.—Q. Might it have been 3:11, Captain?

(Testimony of Captain Olaf Lie.)

Mr. DENMAN.—No.

A. I do not understand.

Mr. HENGSTLER.—Q. Might it have been 11 minutes after 3 o'clock?

A. No. It was the first whistle.

Mr. DENMAN.—Q. Let me ask you, Captain, about that bearing that you took at 3 o'clock. I believe you found the position then to be due south, as far as the bearing showed in that thick fog, due south of the Point Reyes lighthouse, didn't you?

A. The bearing was due north.

Q. That is to say, as far as you could tell it in the fog? A. Yes, sir.

Q. Now, tell me what charts you used in making up this course that you have presented to the Court here as the true statement of your course. What charts did you use in doing that?

A. The first chart I used was the chart which you showed me day before yesterday, which I figured on day before yesterday.

Q. That is to say—

A. (Intg.) The American chart—I don't remember the number of it.

Q. We will get the number right here. No. 5500, isn't it? A. Yes, that is right. [252—132]

Q. And it is on that that you base your testimony as to your course, isn't it?

A. Yes—no, I am wrong there, because the course is not laid out on that chart, you must remember.

Q. I know that.

A. It was not laid out on that chart. That is only

(Testimony of Captain Olaf Lie.)
laid down up to the point of the collision after I came ashore; it was not necessary for me to lay it down to the lightship, you understand?

Q. That is all right. I want to find out what you used in making up this course that appears here on Libelant's Exhibit 1, which I now hand you.

A. The first days of December, I don't remember exactly the date, I bought this chart privately and made it up with myself, nobody else. I just had it privately, because I wanted a larger scale. I did not fancy the scale on 5500 was large enough, and I wanted to see if the bearing taken by myself corresponded exactly as to the first soundings taken; that is the soundings that was reported to me by the chief officer, you see, because on that chart you could not locate it as exactly as you can on a chart with a larger scale, and that is the reason I bought it. And this is a copy of that of the "Selja's," but of the "Beaver's" it is a little different.

Q. All right. Then, as I understand it, in making up this course on this chart, you did not use any other chart or the soundings on any other chart. Is that correct?

A. No. I just took the soundings the chief officer gave me.

Q. And compared them with the soundings on this chart?

A. There is no soundings on this chart. There is no sounding. I found there was no sounding to help me on this chart.

Q. You made up your course, then, here, without

(Testimony of Captain Olaf Lie.)

using the soundings [253—133] at all; is that correct?

A. Yes, but I took the three bearings on this chart.

Q. Then your course there relies entirely on the bearings as shown on that chart? A. Yes.

Q. And the soundings were not used at all in determining the course as shown on that chart; that is correct? A. No, they were not.

Q. Not used at all? A. No.

Q. So that if the soundings should disagree with that chart there would be evidence you had made a mistake in your course, would it not?

A. What is that?

Q. I ask you the question, if the soundings should disagree with the course shown on that map it would be evidence that the course was incorrect, would it not?

A. Yes, if the soundings which I had given to me at 2:50 did not correspond and the distance off as given by the bearings did not correspond, well, then, something must be wrong.

Q. Exactly. It is not the soundings that were given you that determine or that you understand determine the position of the vessel, it is the actual soundings, is it not, Captain?

A. It is the soundings that determine that distance off, that first distance off as given in the log at that time, one and a half miles off abeam, when we passed the light.

Q. That was at 2:50, was it not? A. Yes.

Q. You passed the light at 2:50 and you claim that

(Testimony of Captain Olaf Lie.)

the water under the vessel at that time was something about 29 fathoms?

A. Yes; that is what was reported to me.

Q. Of course if that was in error then your whole calculation would be off, wouldn't it?

A. No, it would not, because I had the [254—134] bearings myself.

Q. Except for the whistle bearings, if that report was in error that fathom marking of it is incorrect?

A. No, sir, not exactly.

Q. Why not?

A. Because you see there is 29 fathoms there, and I passed on the edge of the bank exactly to my knowledge when I was abeam of that light, and if it was a little past it I might have more depth, and although the position would be practically the same —it is just a little—the bearing would be absolutely the same.

Q. What was told you you say was 29 fathoms?

A. Yes.

Q. All right; at 2:50. A. Yes.

Q. Now you don't know whether that fathom marking was on the edge of the bank or not, do you?

A. It could not have been anything else.

Q. It could not have been anything else but on the edge of the bank. A. Yes.

Q. But you are certain it was 29 fathoms at 2:50?

A. That is what was reported to me. And the soundings before then just prove it to be correct.

Q. Now, don't you know that the sounding at 2:45 was 35 fathoms?

(Testimony of Captain Olaf Lie.)

A. I did not know that at that moment, no.

Q. Don't you know now that the sounding at 2:50 was 35 fathoms?

A. It appears in the evidence given by the second officer it was.

Q. Also the sounding at 3 o'clock was 35 fathoms?

A. It appears that way in the evidence.

Q. Now, I want you to take your chart there, Libelant's Exhibit 2, and draw a line through Point Reyes due north and south; continue the marking right on down. Now, Captain Lie, you were somewhere [255—135] on that line at 3 o'clock, were you? A. Yes, sir.

Q. Will you please mark on that line the nearest point to Point Reyes at which you could have 35 fathoms.

A. That is hard; it might be 35 there and it might be 35 there (pointing).

Q. Do I understand you to say then that in your opinion 35 fathoms could be between the 30-fathom mark and the 34-fathom mark on that?

A. Yes, I think so.

Q. That is the way you read these charts, is it?

A. Well, if the other soundings do not show—

Q. I am not asking you about the other soundings.

A. I can't rest entirely upon one sounding.

Q. I am not asking you to rest on one sounding. Just wait a minute. I am asking you as an expert to lay off on this chart the various points I want you to find. Now, I want you as an expert to tell me whether in your opinion as an expert you can say

(Testimony of Captain Olaf Lie.)

that between the 30-fathom and the 34-fathom mark you can mark 35 fathoms?

A. It may be more there (pointing). According to one sounding I would say up there perhaps.

Q. Mark that.

A. Well, I would not—we don't go backwards; we have to come from the first start and take 35.

Q. If it won't stand for backwards, it won't stand for forward, Captain. We will mark this on Libelant's Exhibit 2, "Lie 1."

Mr. PAGE.—Now, Captain, I do not think you have quite identified the spot that is now marked between 34 and 30.

Mr. DENMAN.—Q. This is the spot that you have now marked, Captain, as the spot, just to the south of sounding 34. Is that correct?

A. Yes, sir. [256—136]

Mr. PAGE.—Q. And it is marked "Lie 1."

A. Yes.

Mr. McCLANAHAN.—Q. And has a circle around it.

Mr. DENMAN.—Q. Now, Captain, will you mark or run through that point a course south 65 east?

A. Yes.

Q. Run it way down to the lightship.

A. To the lightship?

Q. To the lightship, yes. A. Yes; all right.

Q. Now, Captain, as I understand you to say, or do I understand you to say that to the south of this mark 36 which appears just above the cross you have drawn, that you might have 35 fathoms of water to

(Testimony of Captain Olaf Lie.)

the south? A. No, sir, absolutely impossible.

Q. Why is that?

A. Because it is 41 down here, and it is 35 up here —not between there.

Q. So that it is perfectly safe to say then that this marking of 35 fathoms must be to the south of it; that is correct, isn't it?

A. I do not say that; no, it is not absolutely correct. I said—will you let me explain?

Mr. McCLANAHAN.—Q. Go ahead; nobody is going to stop you.

A. But on one bearing, if I had—

Mr. DENMAN.—Q. I am not asking you as to that.

Mr. McCLANAHAN.—Let him explain. Wait a minute.

A. If I had only one bearing and one drop of the lead, then I would assume that, but if I had succeeding sounds, and found them to be 35, I would draw them close to the bank, succeeding soundings.

Q. Do you find anywhere there where you could have 29 fathoms at 2:50? A. I can get that.

Mr. McCLANAHAN.—He has not asked you a question yet. You are [257—137] beginning to figure before he asks you a question.

Mr. DENMAN.—Q. (Contg.) Where you would have 29 fathoms at 2:50 and for five succeeding soundings had 35 fathoms—at 2:50, mind you, at 2:50. A. Not exactly; no.

Q. You could not have them? A. No.

Q. So that if there were five succeeding soundings

(Testimony of Captain Olaf Lie.)

at 35 fathoms you could not have had 29 fathoms at 2:50; that is correct?

A. Not necessarily so, not exactly, but as a matter of fact if I was a quarter of a mile farther in I would have had it.

Mr. McCLANAHAN.—Q. Have what?

A. Would have had 29.

Mr. DENMAN.—Q. But you say you had 29.

A. You see this must be based upon my first experience when we entered that bank, and I placed that position abeam through the sounding I got from the first officer, and also afterwards of the two bearings I had myself.

Q. By the way, you had not taken those bearings as I understand you; you ordered your officers to take them. You remember that, don't you?

A. The last bearing, yes.

Q. And also the second bearing at 2:50, you remember that also, don't you?

A. I took the bearing as well as the officer.

Q. I thought you told the first officer to take it at that time? A. That was at 3 o'clock.

Q. How about 2:50. A. I took that myself.

Q. At 2:50 you took the bearing yourself.

A. Yes, sir.

Q. So that these courses are made by you as the result then of the bearings at different points, some of which were taken by you and some by the other officers; is that correct?

A. No, sir, it is not correct. I will explain why it is not correct. [258—138] The first bearing at

(Testimony of Captain Olaf Lie.)

2:30—2:30 or perhaps 30 seconds later—was taken by me; that is, east by north, and the bearing abeam was taken by me, and the bearing at 3 o'clock was taken by the first officer just to find out if my two bearings were correct. But I did not get time on board to ascertain that; as you remember, in my evidence, I did not get into the chartroom afterwards, but when I came ashore I laid all those three bearings off, not taking any soundings into consideration, and the last bearing proved the correctness of the bearing abeam, and the other bearing.

Q. The soundings, that is to say, a succession of soundings of 35 fathoms was had, so you could not have had 29 fathoms at 2:50?

A. That is reported by the second officer, that is over a week after that was laid down by me, and the second officer never told me anything about 35 fathoms except that he reported to me the last sounding he had just before the collision.

Q. He was the man that was actually doing the sounding, was he not?

A. He was taking the soundings but I do not know exactly what time he gives.

Q. He gives what time they commenced, don't he?

A. I expect he does.

Q. Well, now, Captain, you have not stated to me yet what rule 16 is in Norwegian translated into English.

A. Do you want that exactly, the rule—the wording of it as it appears in the book?

Q. Give it as an expert, Captain, would.

(Testimony of Captain Olaf Lie.)

Mr. McCLANAHAN.—Q. He wants your best recollection of it, Captain. (Addressing counsel.) I suppose you refer to the whole rule and not to the latter part? [259—139]

Mr. DENMAN.—Just the rule in so far as it refers to a whistle heard forward of abeam in the fog.

Mr. McCLANAHAN.—Q. He wants your best recollection of the latter part of the rule as it appears in Norwegian?

A. A steamer hearing a fog signal of another vessel forward of her beam, which vessel is not surely or exactly ascertained, you shall, as far as the circumstances of the case admit, stop your engines and navigate with caution until the danger of collision is over. I think that is it.

Mr. DENMAN.—Q. What is the English rule?

A. A steamer hearing apparently forward of her beam a fog-whistle of another vessel, the position of which is not ascertained, shall, so far as the circumstances of the case admit, stop her engines and then navigate with caution until the danger of collision is over.

Q. Yes. Was there anything in the circumstances here which prevented your stopping your engines? A. Yes.

Q. Between 3 o'clock and 3:10? A. Yes.

Q. Was this thing that prevented you from stopping your engines anything of a physical nature?

A. What stopped me from stopping the engines was that the whistle that we saw in a certain position and so far away that it was not necessary in my

(Testimony of Captain Olaf Lie.)

opinion to stop, or, according to the rule, to see that it was out of danger of collision. The rule says navigate with caution until the danger of collision is over.

Q. Then your idea is that you should navigate with caution before stopping the engines; that is correct?

A. If you have not located the whistle, well, then you have to stop, but if you have [260—140] located the whistle as for as it can be located in the fog, well, then, you do not have to stop, in my opinion.

Q. What do you mean by as far as it can be located in the fog? I thought you could always locate the whistle in a fog.

A. I do locate it, but I mean as far as the position can be located.

Q. You say that you can always locate a whistle in a fog.

A. Yes, but you can't locate it, I mean, with a certain bearing and know the distance off as we can with a bearing in clear weather; that is what I mean.

Q. Then you did not locate this whistle as far as the distance off was concerned?

A. Not the exact distance, but I have located it to be outside of danger of collision by all means.

Q. You had not located its position?

A. Exactly, no.

Q. You did not know within 15 miles of where she was?

Mr. McCLANAHAN.—That has been gone over.

(Testimony of Captain Olaf Lie.)

Mr. DENMAN.—Yes, I know it has.

Mr. McCLANAHN.—It has grown five miles since the last question; it was 10 miles before.

Mr. DENMAN.—Q. Now, Captain, that is your interpretation of the rule, is it?

A. I have read the rule.

Mr. McCLANAHAN.—Q. You say you have read the rule. A. I have read the rule.

Q. You do not mean you have read the rule, do you? A. No. I have stated the last part of it.

Mr. DENMAN.—Q. Now, Captain, up to 3 o'clock P. M.—I mean up to 3:10 o'clock P. M. had you locacated the course of the "Beaver"? A. At 3:10.

Q. I mean up to that time, prior to that time, had you located the course of the "Beaver"?

A. Well, yes, I should say I have, [261—141] at that time, because the bearing did not seemingly change, and I should say that I knew about the course of her when I stopped.

Q. The bearing had not changed at all, had it?

A. It changed from the first, yes—it changed a little from the first.

Q. That is to say, it changed from dead ahead to port, did it not?

A. Yes. After the first bearing it changed, but after we commenced to time it it did not apparently change.

Q. Then could you tell, if it did not change whether she was crossing your course or coming directly for you?

A. If she was on the port bow she must have

(Testimony of Captain Olaf Lie.)

crossed our bow a little, to get on the port bow.

Q. She must have crossed your bow? A. Yes.

Q. You did not know that until 3:10, did you?

A. No, not exactly, because I had to have succeeding bearings before you know it.

Q. So that your idea is that you could wait ten minutes in a fog to calculate succeeding bearings before you determine whether or not she is crossing your bows and you shall stop your engines; that is correct, isn't it?

A. If the vessel appears far enough off I can do it.

Q. So it all rests upon whether or not you can tell the distance the whistle is off in the fog; that is correct?

A. Yes; I can tell if it is outside of danger of collision.

Q. Now, Captain, how do you distinguish between a loud whistle at a distance and one-half as loud which is nearer in the fog?

A. That is very hard to explain, but I can always say that.

Q. You can always say that, but you could not say in this case whether this whistle was a fog-horn or a steamer?

A. It was a loud whistle, a very loud whistle. [262—142]

Q. It was a very loud whistle?

A. Not very strong, I mean, but you could hear, it was deep and strong—you could hear that, although it sounded faint—you could hear that, if there is no disturbance to interrupt you.

(Testimony of Captain Olaf Lie.)

Q. So this was a deep, strong whistle blowing intermittently at a space of about one minute apart from 3 to 3:10, and up to 3:10 you could not tell whether or not it was a steamer's whistle or the whistle off Golden Gate; that is correct, isn't it?

A. At 3:10 I knew it, yes.

Q. Up to that time you did not know it?

A. No, up to that time I did not know exactly, but I made up my mind a little before 3:10 that it was a steamer, and I stopped at 3:10.

Q. Oh, yes; and you want to take back what you have stated here that you stopped your engines as soon as you made up your mind it was a steamer. It was some time after you made up your mind it was a steamer?

A. I made up my mind before, of course, because I could not act first and then make up my mind afterwards.

Q. There was just that instant of acting between the two. A. That is only an instant of action.

Q. So that there was not any appreciable space of time elapsed—about 3:10 you make it, don't you?

A. Yes.

Q. You looked at the clock, didn't you? A. Yes.

Q. Now, Captain, don't you know as a matter of fact that you had been lying there 10 minutes rolling in the trough of the seas?

A. We had not been rolling at all.

Q. Rolling in the trough of the seas at a standstill?

A. No, sir.

Q. For ten miutes? A. No, sir. [263—143]

(Testimony of Captain Olaf Lie.)

Q. From 3:05 on? A. We had not been rolling.

Q. Don't you know as a matter of fact—

A. No, I don't know that.

Q. Don't you know that you said it to five different persons after you came on shore here?

A. No, sir, I have not said a word about it, Mr. Denman.

Q. Absolutely not?

A. Absolutely not, because that is a lie.

Q. Maybe, Captain; we will find out.

A. That is a lie.

Q. Now, Captain, why was it important to state—remember that you are an expert now—why was it important to state the fact, or rather, that the other vessel struck you at an angle of 70 or 80 degrees? Why did you consider that important, that angle?

Mr. McCLANAHAN.—I object to that question—

Mr. DENMAN.—Q. (Contg.) As an expert.

Mr. McCLANAHAN.—I object to that question on the ground that it does not appear the captain considered it important.

Mr. DENMAN.—Q. Do you consider it important? A. No, I do not.

Q. Now, as a matter of fact, you testified on three different occasions she struck you at a right angle, didn't you?

A. About, I would not say exactly, but the angle was increasing; that is what I said. And at the time she struck, the angle was increasing,—from the time I saw her until the time she collided I said she would probably be 70 or 80, or between 70 and 80 and

(Testimony of Captain Olaf Lie.)

90, or between there.

Q. As a matter of fact, you swore on three occasions it was at a right angle, didn't you? That is correct?

A. I did not say exactly.

Q. Didn't you say at right angles?

A. I mean about, because I could not say exactly, I don't know. [264—144]

Q. You did testify that the vessel struck your vessel at right angles, didn't you?

A. I have said about a right angle.

Q. About right angles? A. Yes.

Q. And now you are trying to shift that to an angle of 80 degrees?

A. I am not trying to shift it, but it was impressed on my mind that I said 70 or 80 degrees— it is not important to me.

Q. Then it might have been 90 degrees?

A. It might have been between 70 and 90, but I do not think it was 90.

Q. But you did swear it was 90 when they asked you the question before.

Mr. McCLANAHAN.—I object to that on the ground it is not a proper statement of what he swore to. He never said it was 90.

Mr. DENMAN.—Q. You did swear it was at right angles, didn't you?

A. About right angles, yes.

Q. Now, Captain, at the time that the "Beaver" struck you, how much had you fallen off from your course?

(Testimony of Captain Olaf Lie.)

A. I said about a point, or from half a point to a point—I don't know exactly.

Q. Now, Captain, do you remember testifying before the United States Inspectors as follows: "We were off the coast. The third officer was logging S. 65 E. Magnetic. At the moment she struck I should think he came ¼ of a point south. His wheel was on the starboard quarter." Do you remember that testimony?

A. I don't remember it because I don't understand it. That is—

Q. (Intg.) Wait a minute. "The third officer was logging S. 65 E. Magnetic." You understand that don't you?

A. I do not log the course—I never told him to log the course.

Q. You know what that means, "The third officer was logging S. 65 E. Magnetic"—you know what that means? [265—145]

A. I don't know what it means, no.

Q. Do you know that this means: "At the moment she struck I should think he came ¼ of a point south." You know what that means?

A. Yes, I know what that means.

Q. You said that at that time, didn't you?

A. Well, if it is there, I may have said it.

Q. You don't remember—

A. I don't, but I said she may have been from—she was to the southward of the course, I know that, because I asked the man at the wheel prior, or between 3:10 and 3:15, what she was heading, at the

(Testimony of Captain Olaf Lie.)

same time as the third officer was there—

Q. You watched her fall off yourself, didn't you?

A. I didn't want her to fall off.

Q. I say you watched her fall off yourself, didn't you?

A. No, sir, I didn't want her to fall off.

Q. I say you testified here she fell off a quarter of a point—you saw that with your own eyes, didn't you? A. No, I did not.

Q. How did you know she fell off a quarter of a point then?

A. That is what I asked the quartermaster for how she was heading, and he told me in his Chinese language what she was heading, but it was only immaterial to me anyhow, because my vessel was moving so very little that I did not pay much attention to the course.

Q. I believe you said in your examination yesterday that the "Beaver" after she came in sight did not seem to change her course. That is correct, isn't it? A. Yes.

Q. That is what you said yesterday. A. Yes.

Q. Do you remember testifying before the Norwegian Counsel as follows:

Question by Judge BROWN—referring to the "Beaver," this is: [266—146]

"Q. How, or what course, did she appear to be heading and at what rate of speed did she appear to come? A. I would say that when she struck my vessel, she had about ten knots, and her course was then at right angles to our ship,

(Testimony of Captain Olaf Lie.)

but I did not look at my compass to see what she was heading; you see she swung some but I should say she was steering somewhere about west by—oh, I can't say, but I should judge it was crossing our bow somewhere about a point or two points."

Do you remember that testimony?

A. Well, I have not seen it. I have not looked that over; if it is there of course I said it.

Q. Was that true, "You see she swung some but I should say she was steering somewhere about west by—" words to that effect? That is what you said?

A. I am certain that did not apply to the "Beaver," all of that.

Q. Here is the question: "How or what course, did she appear to be heading, and at what rate of speed did she appear to come? A. I would say that when she struck my vessel, she had about ten knots, and her course was then at right angles to our ship, but I did not look at my compass to see what she was heading; you see she swung some but I should say she was steering somewhere about west by—" Do you—

Mr. McCLANAHAN.—Read the balance of it.

Mr. DENMAN.—Q. "Oh, I can't say, but I should judge it was crossing our bow somewhere about a point or two points." Do you mean that your testimony that "you see she swung some but I should say she was steering somewhere about west by" —applied to your ship?

A. No, I do not say it was crossing our bow a

(Testimony of Captain Olaf Lie.)

point and a half—I don't know—that must be that she was heading [266½—147] about a point and a half—that is 82—north 82 west, it would be, that she was heading.

Q. Then you did say at this time that "she swung some but I should say she was steering somewhere about west by" whatever it was?

A. I could not say if she did swing absolutely for certain. I said she did not appear to swing to me very much.

Q. But—

A. (Intg.) She did not appear to me swing anything.

Q. To swing anything?

A. Well, because I looked at the "Beaver" when she came along and I could not say for certain if she was not swinging to either side—I could not say that because it is very hard for me to say, but she appeared to me to come pretty nearly the same as she headed first when I saw her.

Q. This was four or five days after the accident when your memory was fresh—"You see she swung some but I should say she was steering somewhere about west by." You did say that?

A. Well, if it is there I said so, that is a sure thing. It is only a matter of judgment.

Q. Your judgment then was she swung and your judgment now is she did not?

A. I have said so; she did not appear to swing much to me.

Q. Now, did you at any time say anything to the

(Testimony of Captain Olaf Lie.)

third officer concerning a two whistle signal?

A. Yes, I did.

Q. I thought so. Now when you came in, Captain, to-day, you corrected a statement that you had made, that is to say, you said if she had six knots at 3:05 and you then reduced the engine to slow speed, that she at once would begin to fall off?

A. She will commence to fall off, but of course her falling off from the first start would not be as great as the latter part.

Q. That is what you meant when you said yesterday that the curve [267—148] was sharper at the end than at the beginning?

A. Yes, it would not be absolutely straight—I mean she will come down. I can illustrate that.

Q. Will you illustrate it, please?

A. Of course, it is not absolutely correct, Mr. Denman. It is just what I think. That is what I think the curve would be; I would say she would come along here at the utmost at six knots. (Illustrating.)

Q. Just mark the time at the beginning of the curve. Now at 3:05—I want you to curve it from 3:05 to 3:10?

A. I should say the curve would go—it is very hard to say—that is approaching it, the curve.

Q. Where do you make your three knots?

A. Three knots would be from there to there, half of that, or a little more than half of that, you see (illustrating.)

Q. Oh, then you think you would drop, lose your

(Testimony of Captain Olaf Lie.)

entire six knots impetus at how many minutes?

A. This is not the minutes, that is a mile.

Q. Then you would lose your entire three knot—I mean six knot impetus in what period of time?

A. I would say she would be down to her speed—this is only judgment— at about three minutes, or perhaps we will say—I will say three minutes. I would not say for certain. This is only a judgment, I don't know.

Q. She would drop three knots off her speed in three minutes?

A. Three minutes perhaps, three and a half, I could not say exactly; that is just my judgment.

Q. Although she was being then driven—

A. (Intg.) By twenty revolutions.

Q. By 20 revolutions? A. Yes.

Mr. HENGSTLER.—Q. You mean 5 minutes after 3?

A. I mean that [268—149] at 3:08—she would probably be down to her three knots at 3:08.

Mr. DENMAN.—Q. Why have you changed your testimony in that regard since yesterday?

A. Because when I thought of it, it is impossible that a ship can carry the momentum she had for a minute and a half when her propeller is only doing half as much.

Q. But why do you drop it now down to three minutes or three and a half minutes she would lose the entire six knots?

A. Because that day I tell you my mind was not as clear as ought to be under the pressing cross-exam-

(Testimony of Captain Olaf Lie.)

ination, Mr. Denman.

Q. Your mind is clear now on the subject, is it?

A. I think it is.

Q. Now, you want to go back to your first statement as to the distance you covered between 3 and 3:15; is that correct?

A. Well, the distance between 3 and 3:15 is based upon—I can explain.

Q. You want now to go back to the first statement that you made as to the distance you covered between 3 and 3:15; that is correct, is it?

A. It is not based entirely upon that either.

Q. I want to ask you whether you do go back?

A. Yes, I want to go back.

Q. That is something over 6000 feet; is that correct? A. From 3 to 3:15?

Q. Yes.

A. That was 6040 feet—a mile—I mean 6080 feet.

Q. 6080 feet? A. Yes, a knot.

Q. All right. You want to stand by that, do you, Captain?

A. Yes, about.

Q. Now, as I understand it, you testified before the Inspectors that if she had a 10 knot—what is your full speed? 11 knots [269—150] isn't it?

A. This voyage it was 10 knots—about 10¼ knots.

Q. 10¼ knots. A. Yes, sir.

Q. If she were going 10¼ knots, that she would be dead in the water at the end of 10 minutes?

A. I did not say that. She would probably be more than ten minutes if she was not reversed, I

(Testimony of Captain Olaf Lie.)

stated, I think I said she would not be at rest in 10 minutes. I could not say exactly. That is impossible for me to say, because I have not—

Q. One moment, I am asking you now about what you testified before the United States Inspectors.

Mr. McCLANAHAN.—That is not the proper way to do it.

Mr. DENMAN.—I am going to read the exact statement and ask him whether he said it.

Q. How much would it take over ten minutes, Captain?

A. I could not tell you that.

Q. You cannot. You have not made that calculation? A. No, sir.

Q. The statement is it would take her over ten minutes in that testimony. Then in your opinion she would drop her six knots speed to three knots in three minutes?

A. I would say about three minutes, I could not say exactly, Mr. Denman. I would say about three minutes; she would drop down to that before the end of five minutes.

Q. Before the end of five minutes?

A. Yes, sir.

Q. Now, Captain, suppose you had stopped your engines at 3 o'clock, you would have been down to three knots speed at somewhere around 3:03. would you not?

A. No—if I stopped the engines?

Q. Yes.

A. That is a different thing altogether.

(Testimony of Captain Olaf Lie.)

Q. I say, if you had stopped your engines?

A. At 3 o'clock?

Q. Yes. A. Doing six knots? [270—151]

Q. Yes.

A. She would not be down to three knots in three minutes.

Q. She would not? A. No.

Q. She would go faster?

A. The propeller had nothing to do then; the propeller was at rest then.

Q. Suppose now the engine stops, she was not being helped at all by the propeller.

A. I don't think she would be down to three knots by three minutes, although I could not say for sure.

Q. Do you think she would drop from six knots to three knots quicker with the propeller than without it?

A. I think so, because the propeller is doing a certain kind of work.

Q. Well, the propeller is helping, isn't it?

A. The propeller is helping it.

Q. You say that with the propeller helping her she would drop from six knots to three knots in about three minutes. Now, I ask you if the propeller were not helping you, how long would it take her to drop to three knots? A. I could not say.

Q. It would be less time, wouldn't it?

A. I do not think so; that is my opinion. I do not think so, I cannot say for sure.

Q. Isn't it common sense that if the propeller is helping you you will drop slower?

(Testimony of Captain Olaf Lie.)

A. That is not common sense. It is impossible for a man like me or you to know it, because it has got to be entirely based upon experience. I know vessels of my size that have travelled ten knots and stopped that would go at least 20 minutes before coming to a rest.

Q. I am not talking about coming to rest at all. You have now testified that between 3:05 and 3:08, with the propeller going at 20 revolutions, she would drop from six knots to three knots?

A. I think she would. [271—152]

Q. Now, if the propeller were not working, how fast would she drop?

A. I could not tell you, I think perhaps she would do the same. I could not say. I do not say she would not do it in less.

Q. Would she do it in more?

A. Well, that is a question.

Q. Is that conceivable, Captain? Is it conceivable that she would drop her speed slowed if the propeller were not going than if it were going?

A. I do not know exactly how long she would carry, but it is based upon a thing it would take—

Q. (Intg.) I am not asking you that question.

A. It is based upon how long it is before she will come to rest. I think by going six knots, I should say, although I do not know, it would take her perhaps 15 minutes to come to rest.

Q. I am not asking you about coming to rest.

Mr. McCLANAHAN.—He says it is based on that.

(Testimony of Captain Olaf Lie.)

A. It is based on that; and I know she would not carry, if she was slowed down from half speed, she would not carry that over three knots for the same length of time. She would come down to her ordinary speed, to her propeller within five minutes, or three minutes, I could not say exactly.

Q. Well, it might have been five then?

A. No, I do not think it would take five.

Q. Just come down to what you think it would be. You think it would be three, don't you?

A. Well, I think so.

Q. Well, let me put the question to you, because I do not want you to say you did not understand it: if with the thrust of the propeller at revolutions she will drop from six knots to three knots in three minutes, how long will it take her if she has not got the thrust of the propeller to drop from six knots to three knots? [272—153]

A. I could not answer because it cannot be answered mathematically exactly.

Q. All right. Would it take her longer or a shorter time to drop from six knots to three knots if the propeller were not turning?

A. It seems really to us sitting here I should say that she would probably come down in a shorter time, but I am not sure of that.

Q. Isn't that common sense?

A. It is between us but I would not say that because it may be—I don't know.

Q. Have you been saying anything between us that you do not know is common sense?

(Testimony of Captain Olaf Lie.)

A. No, I do not know exactly.

Q. Isn't that common sense, Captain, that the thrust of your propeller would help you ahead during the three minutes—would it not?

A. Yes, it would help ahead.

Q. It certainly would. A. Yes.

Q. Isn't it quibbling to say anything else.

A. No, no; that is right.

Q. Then it is safe to say you would drop from six knots to three knots without the thrust of the propeller in two minutes, isn't it?

A. I would not say anything because I don't know.

Q. How do you know the other?

A. Well, I just thought that it would be. I could not say anything of this thing for certain; I have said that.

Q. How long do you think it would be?

A. Let us say between two and three minutes; we can say that.

Q. Won't your propeller give you at least one-third help during that period?

A. But when the propeller is only pushing three knots the propeller isn't making any more than three knots.

Q. Your theory is the propeller would not help at all? [273—154]

A. It would help when you got down to three knots.

Q. It would not help you before that?

A. It would keep up to three knots, then.

Q. Well, if you had stopped your engines at 3

(Testimony of Captain Olaf Lie.)

o'clock you were certain that by 3:03 you would be down to the three knots, at any rate, on this theory?

A. Yes, I should say so, although I do not know exactly, for sure.

Q. You know it as sure as any of the calculations you made here? A. On this?

Q. Yes.

A. I do not know it as good as when I get a calculation which I can base upon mathematical matters.

Q. You know it as good as any of the calculations you have made as to the distance you covered between 3 and 3:15, don't you? A. Yes, about.

Q. Now, Captain, how far would you travel between 3 o'clock and 3:03 at the speed gradually dropping from six to three knots, as you aproximate it, from your practical experience. Just take a pencil and paper and take plenty of time.

A. I cannot figure that exactly.

Q. I do not want it exactly.

A. I can't figure that.

Q. Figure it the same way as you figured the other one between 3:05 and 3:10.

A. Let me explain how I figured that to you. I said I thought to myself on figuring that that the push of the propeller she had after 3:05 would be equal to what she would have less after 3:10, you see; that is to say, she would have so much more than three knots before 3:10 as she would have less than three knots after 3:10, and if she was going at a rate of three knots for ten minutes, then she would cover

(Testimony of Captain Olaf Lie.)

a distance of a mile. That is plain, isn't it? [274—155]

Q. But you have calculated that and laid it off on the chart on distances between different times.

A. Yes.

Q. And also at different rates during those times?

A. Yes. I will explain to you how I did that.

Q. I am not asking you how you did that. We will come to that later on. I want to ask you how much you figure your vessel would run between 3 o'clock and 3:03 with the speed at 3 o'clock at three knots, and the speed at 3:03 at three knots? What would be your maximum you could have run in that time?

A. Well, I could not say. Do you mean the distance?

Q. The distance, yes.

Mr. McCLANAHAN.—Q. Do you understand the question?

A. I understand the question, yes, I could not say that. But I should say she could travel in that three minutes between 1,500 and 1,600 feet, perhaps.

Mr. DENMAN.—Q. What would she travel at the rate of? A. That is about.

Q. Between 1,500 and 1,600 feet. What rate is that? A. That is about.

Q. What do you think her average speed would be? A. That is about five knots.

Q. You think her average speed then would be—

A. (Intg.) Four and a half to five knots. I could not say, that is impossible to say, exactly.

(Testimony of Captain Olaf Lie.)

Q. You think it would run at the average speed of four and a half to five knots without the thrust of her propeller between 3 and 3:03?

A. I think so; that is my opinion, although I do not know exactly.

Q. So that then between 3:05 and 3:08 with the thrust of the propeller [275—156] she would run more than four and a half or five knots speed; is that correct?

A. No. I have said she would between 3:05 and 3:10.

Q. I am now asking you—you say that she would lose all right?

A. I do not really understand that question—from 3:05 to 3:08, she would run more than 4½?

Q. Yes. You say that from 3 to 3:03—

A. (Intg.) Yes, I should say she would probably run—I can't figure that exactly.

Q. But I mean approximately, from your experience. A. Yes.

Q. In the handling of that vessel. A. Yes.

Q. You have had a good deal of experience with her, haven't you?

A. Yes, but I have not had any absolute data concerning her.

Q. Well, then, you would cover how many feet would you say between 3 and 3:03?

A. 1,500 or 1,600 feet.

Q. Just figure that out; see if you get it that at 4½ knots. A. 4½ knots?

Q. Yes. A. I said 4½ or 5. I took 5 knots.

(Testimony of Captain Olaf Lie.)

Q. Take 5 knots and figure it accurately,—three minutes at five knots an hour.

A. It would be about 1,518 feet.

Q. Now, Captain, suppose—by the way, have you prepared those problems for me?

A. Yes. I worked out some, yes, which is laid down on the chart. (Handing.)

Mr. McCLANAHAN.—The witness hands counsel the data called for.

Mr. DENMAN.—Q. This is not what I wanted, Captain. What I wanted is your actual mathematical figures whereby you got the results testified to yesterday. For instance, you say here that the pitch of the propeller is a certain amount. Now, of course, [276—157] you had to figure that in. There is no hurry about it.

Mr. McCLANAHAN.—I think you have got what you want.

Mr. DENMAN.—I think we had better adjourn now until this afternoon.

(A recess was here taken until 2 P. M.) [277—158]

AFTERNOON SESSION.

OLAF LIE, cross-examination, resumed.

Mr. DENMAN.—Q. Captain, I believe you testified that in plotting the curve of the decrease in speed of your steamer when you had taken off the power of the engines, that the curve drops much more rapidly at the end than at the beginning; that is correct, is it not?

A. Well, I do not know exactly, but I think so.

(Testimony of Captain Olaf Lie.)

Q. That means that she keeps up her speed more in the beginning and loses it more rapidly at the end, does it not?

A. No, it does not mean that she keeps it up. Of course, the first speed she loses more, but after she gets down to a certain level then it will keep on.

Q. But you have just said that the curve dropped more rapidly.

A. Yes; the speed she was going, that would drop more at first, not exactly at the minute, I should think a little bit after.

Q. You have testified and you have drawn on your illustration here a line showing that the speed of the ship would drop more rapidly at the end than at the beginning. A. Yes, I did.

Q. That is correct, is it not?

A. Well, to my belief. I do not know exactly.

Q. You do not know exactly. What do you mean by that. You do mean that she would drop her speed more rapidly at the end of the period than she would at the beginning of the period?

Mr. McCLANAHAN.—He has stated that is his belief; that is sufficient.

Mr. DENMAN.—Q. So that if you were to stop the engines going at six knots speed she would drop more rapidly at the latter half [278—159] of the period during which she comes to an entire stop than she would in the first half?

A. Is that with her engines going at three knots?

Q. No, her engines are stopped.

A. No. Then she will drop a little first, but she

(Testimony of Captain Olaf Lie.)

will keep up the speed; the curve at the last end will keep up; it will drop a little first, to my opinion, and then it will keep on.

Q. Now, what difference does it make in dropping from six knots to three knots, a three-knot speed on your engine, in the rapidity of the curve at the end, in the dropping from six knots to three knots, without the engine going on?

A. I do not know exactly how the curve would be, but I should think there is a difference in the curve.

Q. Would not the difference be that when you did not have the engine the drop would be more rapidly at the end than when you did have the engine?

A. No, sir. As soon as you get down to the three knots, you keep on three knots. That shows she will drop only to three knots and keep on.

Q. I am asking you—you say at 3 o'clock she was going at six knots; if you stopped the engines, at 3:03 she would drop down to three knots?

A. I do not know exactly; that is my opinion.

Q. That is all you have given an opinion as an expert?

A. I want to explain. This is not mathematical. That is only pressed out of my opinion; I have not considered this in my evidence at all before.

Q. You have not considered your evidence before?

A. I have not considered this before I came here, before you have commenced to press it out of me.

Q. You have had plenty of time since this morning, haven't you? [279—160]

A. I never thought about it.

(Testimony of Captain Olaf Lie.)

Q. How long will it take you to work that thing out, Captain? A. I could not work it out exactly.

Q. How long would it take you to clarify your mind on the subject?

A. I could not tell you how it would be exactly.

Q. I am not asking you exactly, I am asking approximately.

A. Approximately from it may be wrong.

Mr. McCLANAHAN.—You asked him exactly. His answer was approximately and then you appropriated his exact language.

Mr. DENMAN.—I have never appropriated his exact language. I have always taken his opinion as to what the speed was.

Q. Your best opinion, based on your knowledge of the ship is that at 3:03 she would have dropped from six knots to three knots; is that correct, or do you wish to change that?

A. No, I do not want to change it. In my opinion it is.

Q. That is based on your observation of the vessel from time to time?

A. No, it is not based on any observation at all.

Q. You never have observed the vessel when she was going through the water or calculated her speed?

A. Yes, I have.

Q. Well, you are able to tell at 3:10, that is you said here this morning, or yesterday, that she was going at 3:10 three knots.

A. About, according to the revolutions.

Q. You said four knots at another time and a

(Testimony of Captain Olaf Lie.)

standstill at another time.

A. I did not say she was at a standstill.

Q. Nearly at a standstill.

A. I did not say she was at a standstill.

Q. Well, you read it to the crew in that way, nearly at a standstill. Now suppose she goes at the rate of, an average rate of, [280—161] five knots in dropping from six knots to three knots between 3 and 3:03—you estimate that she would cover what?

A. 1,518 feet; that is what I said.

Q. During that time. Now, suppose you continued at a three-knot speed for 12 minutes, up to the time of the collision, what ground would you cover?

A. If I kept on?

Q. At three knots speed up to the time of the collision, what ground would you cover?

A. Let me see. I should say—well, I could not say exactly how much she would travel. It is impossible for me to say it exactly.

Q. Take your ship for 12 minutes at three knots an hour, what space would you cover?

A. We would cover half-mile in 10 minutes.

Q. Well, 12 minutes, what would you cover; calculate that, can't you? A. Yes.

Q. That is an exact matter. Calculate it.

A. All right. If she continued at three knots, it would be about 3,650 feet. That is what it would be if she continued at three knots.

Q. If you add that to the 1,518 feet that you covered between 3 and 3:03, you would have how many

(Testimony of Captain Olaf Lie.)

feet. Add it up, please; how many feet would that be.

A. It would not be that because I don't base the calculation that way.

Q. I am not asking you that. Just make the calculation. A. That is 5,168 feet.

Q. So if you had stopped your engines when you first heard the whistle and dropped your speed to three knots an hour, and had continued at the rate of three knots an hour up to the time of the collision you would have covered 5,168 feet; is that correct?

A. I do not think it is exactly correct, no, sir.

Q. How much is it out of the way?

A. Well, it may be 100 or 200 [281—162] feet, I would not say—a ship's length perhaps. That is hard to say.

Q. It would be perhaps 200 feet out of the way?

A. Maybe a ship-length.

Q. So the maximum would have been 5,350 feet?

A. I could not say what it would be at the utmost out.

Q. Would it have been 5,500 feet?

A. I tell you I could not say exactly.

Q. I am not asking you exactly. I am asking you whether it would have been 5,500?

A. It may be 6,000.

Q. It may be 6,000. A. Yes.

Q. All right. I mean now, that is your way of calculating it. That is your method of calculation, may be 6,000?

A. I have not calculated that before.

(Testimony of Captain Olaf Lie.)

Q. Well, now calculate it. Sit down and take your time about it and calculate it. You have six knots speed at 3 o'clock, you stop your engines until she drops to three knots, and then you continue at 3 o'clock until the time of the collision, how many feet would you cover? Let me ask you first: That is a no more complicated transaction than the estimates you have given here on the chart, is it?

A. It is a little more, because it is stopped there.

Q. But you did stop the engine in making this up, so you have a knot. A. Stopped at the last.

Q. You stopped it. The both calculations require the stopping of the engines; that is correct?

A. Yes. But we didn't continue after stopping the last time. Here you continue.

Q. Here we continue to have a fixed rate. There is no difficulty in calculating a three knots an hour speed, is there?

A. Well, the only thing I can say about this is it may be a ship length or two out. **[282—163]**

Q. Then 5168 feet may be a ship-length out; is that correct? A. A ship-length or two.

Q. Why two ship-lengths? You have no question about what you would go between 3:03 and 3:15, have you?

A. I do not know what she might have in her when I commenced the engines again.

Q. You said at 3:04, in your opinion, she would have lost the six knot speed.

A. That is, if she continued at half speed after she was reduced—

(Testimony of Captain Olaf Lie.)

Q. But your opinion is she would lose her six knots speed at 3:03 and drop down to three knots?

A. Well, probably, I would not say for sure.

Q. But you think—that is your opinion and statement?

A. I said it might be my opinion—that is not based upon the records.

Q. And you calculate in that time she would run 1518 feet. That is a liberal calculation. That is taking a five knot speed, isn't it? A. Yes.

Q. That is a liberal calculation, isn't it?

A. Well—

Q. You said 4½ or 5; we took five, your highest figure. That is correct, isn't it?

A. That is only three minutes.

Q. In three minutes the average speed of five knots for three minutes in dropping from six knots to three knots; that is what you said, is it not?

A. Yes.

Q. That is the most liberal figure you gave, five?

A. Yes.

Q. So that 1518 is a liberal figure, according to that theory, from 3:00 to 3:03?

A. Well, it is within a ship length or so, or two. I would not say exactly. This is not exact.

Q. Well, now, you made a similar calculation between 3:05 and 3:10, didn't you, on this estimate that you have given here on the chart? [283—164]

A. I had to put something down on that chart. Now, I will explain exactly how I did that. I summarized that to be one knot, and then I took one-

(Testimony of Captain Olaf Lie.)

third of it for the last five minutes and two-thirds of it for the first five minutes, and that would be not exactly 1015 feet, but it was 1013 feet; and then I took the 1015—I think I said the 1015—and deducted that from the balance, and I got the distance she run from 3:05 to 3:10; that is the way I did that.

Q. Let me ask you; you say that is the way you did it. Why did you calculate the first five minutes when you were going at a fixed rate? You were going during the first five minutes at the fixed rate of six knots an hour, weren't you? A. Yes.

Q. Then why did you include that in your calculation? Why didn't you *calculation* from 3:05 to 3:10 at six knots?

A. I took it a little over three or one-third of the distance, really, more from 3:05 to 3:10 than I took from 3:10 to 3:15. That is my interpretation.

Q. Let me see. You know what you went from 3 to 3:05? A. Yes.

Q. That is a fixed, definite ascertainable amount?

A. Yes.

Q. So that the only thing you were in doubt about on this thing was between 3:05 and 3:15; that is correct? A. Yes.

Q. There was no *reason take* a knot and divide it into three compartments, was there, when you knew that the first amount was an accurate figure of 3,000 and some odd feet?

A. I did not take it from; I took it from 3:05.

Q. You took it from 3:05? A. Yes.

Q. You assume that you ran a knot between 3:05

(Testimony of Captain Olaf Lie.)

and 3:15? A. No—that is half a knot.

Q. You assume that you ran half a knot?

A. Yes. [284—165]

Q. Between 3:05 and 3:15?

A. Yes, half a knot.

Q. You assume that? A. Yes.

Q. You did not divide it up into three parts as you suggested a few minutes ago?

A. I did. I will do it for you and you can see if it is correct.

Q. I am now trying to get at your mental process, Captain. I am trying to come into your field.

A. Yes.

Q. Now, why was it you stopped your engines at 3:10? Didn't you think it was safe to go on with your engines at that time?

A. No, sir. I made up my mind that it was a steamer approaching, and I had also ascertained the course of her as near as can be, and the bearing did not seem to change to me.

Q. Do you mean to say that you ascertained her course accurately? A. No; approximately.

Q. Well, how can you say approximately? You knew she was crossing your bows then?

A. Well, the bearing kept about the same; it did not broaden.

Q. Did you know she was crossing your bow at that time? A. Well, she must have.

Q. You know that at what time—at 3:10?

A. Yes.

Q. You think she was then crossing your bow now.

(Testimony of Captain Olaf Lie.)

Is that correct, Captain?

A. I had made up my mind that she did not broaden enough on my bow for me to proceed and therefore I stopped the engines.

Q. But you did not know exactly then what her course was, did you? A. Not exactly, no.

Q. You did not know it within a couple of thousand feet, did you, where her course was going to cross yours?

A. I said I did not [285—166] know where it was going to cross.

Q. Did you know at 3:12 where her course was going to cross yours? A. No, I did not.

Q. Did you know at 3:13 where her course was going to cross yours? A. No, I did not.

Q. So that as a matter of fact you really did not have that vessel located, as to where she was in the water, at 3:13; is that correct?

A. Her bearings seemed to be the same, but she broadened a little bit.

Q. Repeat the question.

(The last question repeated by the Reporter.)

A. I did not locate exactly where she was, but I knew she was a good way off—I could see about two ship-lengths, and my vessel was not moving very much ahead, so I was sure that as soon as she loomed up I could manage to get out of her way easy, if she was coming at the same navigation, at the same rate of speed.

Q. Now, Captain, you said something in your direct examination about going to the side of the vessel from time to time; do you recollect that?

(Testimony of Captain Olaf Lie.)

A. Yes.

Q. Between 3 and 3:05? A. Yes.

Q. Between 3:10 and 3:10—do you recollect that?

A. Yes.

Q. Do you recollect being in Mr. McClanahan's office when the deposition of the officer on the bridge in charge was taken? A. Yes, sir.

Q. Do you recollect his testifying that you never went to the side of the vessel but that you stayed within five feet of the whistle cord during the entire time between 3:10 and 3:15?

A. He didn't measure the feet I went off.

Q. I will repeat the question. Just listen to me and do not give [286—167] your theories, Captain, and we will get along more satisfactorily. Read the question.

(The last question read by the Reporter.)

Mr. McCLANAHAN.—I will have to object to that question on the ground it is not a proper statement of what the man testified to. My recollection is he did not mention that the Captain stayed within five feet. That is my impression of what the evidence is.

Mr. DENMAN.—I have a different impression. I will read the testimony to the Captain as I have it here.

"Q. And the captain was right by the telegraph where he could give any signal he wanted to? A. Yes, he was right there.

Q. He stayed right there up until the reversing signal was given? A. Yes, sir.

(Testimony of Captain Olaf Lie.)

Q. He did not move away from there?

A. No, sir.

Q. So he would be able to give a quick warning if it was necessary? A. Yes, sir.

Q. You are sure of that?

A. I am absolutely sure of that.

Q. That was up to 3:15 when the reversing signal was given?

A. I did not look at the clock at the time of the reversing.

Q. I mean up to the time the reversing signal was given. A. Yes, sir.

Q. He was not away five feet during that time? A. No, sir.

Q. So he could be right there and give his command, if necessary?

A. Yes, he was right there.

Q. You signed this log on the 23d, didn't you?

A. Yes, sir."

Do you remember that testimony?

A. Well, I recollect that he said so now.

Q. You were in the room at the time that testimony was given? A. Yes. [287—168]

Q. And the libelant in the case? A. Yes.

Q. And that testimony was taken in the morning?

A. I do not remember exactly.

Q. It was, as a matter of fact,—the case was resumed in the afternoon. You had testimony both in the morning and afternoon, didn't you?

A. Yes, but I did not have any intention to object to their answers.

(Testimony of Captain Olaf Lie.)

Q. This is your own case, you were suing in the case yourself, were you not?

A. Yes, but it didn't make *make* any difference what he said. I know I moved away from the telegraph.

Q. You heard him testify that at that time, didn't you? A. Yes. You pressed him to say so.

Q. There is no cross-examination by the other side indicating— A. Well, I know—

Q. (Contg.)—it was an improper question.

A. I know. I was listening, and he did not think seriously so; he wanted to be finished; he didn't say I didn't move—he didn't measure the feet in his head.

Q. I am glad to have your explanation of it now.

A. The explanation?

Q. I am very glad to have it; it is in the record. Now, do you think, Captain, that under any circumstances it would have been safe to have run that vessel at a three knots speed at 3:12 on that day?

A. Yes, I think so.

Q. Under the circumstances as they were?

A. 3:12? No, I did not run the engine then; she was stopped then.

Q. And you do not think it would have been safe to run the engine at 3:12, do you?

A. I call it good seamanship to do so, because I did not have the slightest idea or thought of a collision [288—169] at that time.

Q. At 3:12? A. No, sir.

Q. You stopped your engines at 3:10?

(Testimony of Captain Olaf Lie.)

A. I did because I heard the steamer approaching and I wanted to see that, if she loomed up right ahead of us—I wanted to be sure that I was not running too far.

Q. I mean you would not have felt safe to have been running at three knots at 3:12, you would not have felt safe in doing it under those circumstances?

A. No, I would not have felt safe.

Q. Now, Captain, how many feet would you make a minute at the rate of three knots an hour?

A. About 300 feet.

Q. About 300 feet a minute? A. Yes.

Q. Now, as I understand it, you say that your figure between 3 and 3:03 of 1518 feet is correct within one or two ship-lengths. How much is a ship-length? A. It is one-sixteenth of a mile.

Q. How much in feet? A. 380 feet.

Q. So when you had 1518 feet, you say it might have been as much as 1800 feet between 3 and 3:03. Is that correct?

A. Well, the feet, I have not commenced to measure, but I had to put something down on this—

Q. I am not talking about that. Now listen. I am talking about this; suppose that at 3 o'clock you stopped your engines going at six knots speed, and at 3:03 she has gotten down to three knots.

A. I do not know exactly.

Q. And you calculate that during that time she covered 1518 feet, but she might be a ship-length off, is that correct?

A. That is correct. I could not say exactly.

(Testimony of Captain Olaf Lie.)

Q. Is that a correct statement of your theory?

A. About.

Q. So that it would make it 1900 feet that she would have gone [289—170] as a maximum allowing your five-knot rate between 3 and 3:03, and allowing a ship-length for good measure; that is correct, is it not, about?

A. About. I do not know exactly what it would be.

Q. Now, suppose from there on you ran, from 3:03 until 3:12, at a three knot speed, how many feet would you cover between 3:03 and 3:12?

A. I would say about 3000 feet.

Q. 2700 feet?

A. If it was down to three knots at 3:03, it would be.

Q. You base your five knots speed between 3 and 3:03 on the basis of being down to three knots.

A. Say, 2700 feet, about.

Q. Now, what would be the total number of feet covered between—presuming you proceeded at that rate—3 o'clock and 3:12?

A. That would be about 4600 feet, I should say.

Q. And that includes an allowance of a ship-length for good measure, don't it? A. Well, about.

Q. And if you were to allow another ship-length for good measure it would be about 5000 feet, would it not? A. Yes, sir.

Q. That is about all the ship-lengths you want to allow for good measure, isn't it?

A. I should say that.

(Testimony of Captain Olaf Lie.)

Q. Captain Lie, who was the charterer of the "Selja" on this last voyage?

A. Portland Asiatic Steamship Company.

Q. And to whom did you report after the wreck, after you came on shore?

A. I went into the Norwegian Consul first and entered a protest and at 11 o'clock the same morning I went up to Mr. Frey, the assistant manager.

Q. Did you tell Mr. Frey about the details of the accident, what had occurred?

A. I don't think I did. I don't remember I said anything.

Q. You say you came in after having the wreck and talked with [290—171] the manager of the company that chartered your vessel and did not tell him anything about the wreck?

A. Yes, he asked me—that is right—he asked me about if I was in the trough of the sea, and if the "Beaver" was on the crest. I remember that. And I said—well, I don't really remember what I said, but I think I said she might have been in the trough of the sea.

Q. Do you recollect that his clerk was there present at the time of this conversation?

A. I did not pay any attention. I saw a typewriter there, yes.

Q. Now, do you recall stating that at that time you had been lying there at a standstill for ten minutes, in the trough of the sea?

A. No, sir, I did not say that at all; I am sure of it.

Q. Now, do you recollect when you came off your

(Testimony of Captain Olaf Lie.)

ship and came on to the "Beaver," after the arrival on the vessel, going up on the bridge and talking with Captain Kidston? A. Yes, I do.

Q. Do you recollect that there were two other officers present there?

A. Well, I saw one officer. That is all I saw. And I saw a man at the wheel.

Q. Do you recollect having a conversation with him regarding the occurrences prior to the collision?

A. I don't remember a thing—the only thing he said was, that "there is Point Reyes"; that is what he said to me; he pointed; we could see Point Reyes, although he was under full speed backing, her engines were going full speed back—and he said "there is Point Reyes." And then he said, "I cannot help it that I put you out of command, Captain."

Q. Do you recollect at that time stating that you had been lying for over ten minutes at a standstill rolling in the trough of the sea?

A. No, sir, I did not. [291—172]

Q. Do you recollect stating at that time that you recognized the whistle approaching you as that of either the "Beaver" or the "Bear," you having become familiar with those whistles from hearing them in Portland?

A. I did, after I stopped my engines, yes.

Q. Do you recollect stating that for 15 minutes you knew he was coming?

A. No, I did not say that, I am sure of it.

Q. Now, do you recollect calling on Mr. James K. Bulger, or calling at the office of the United States

(Testimony of Captain Olaf Lie.)

Inspectors on the morning of Friday, November 25th?

A. Yes—I did not know who it was—of course I don't know exactly.

Q. Do you recollect stating at that office, amongst other things, that you had been lying at a standstill for 10 minutes prior to the collision and rolling in the trough of the sea?

A. I never said so, because I am sure she did not roll. I had a cup of coffee on the back of the bridge which was served to me after 3 o'clock, and that stood there where it was. I never said she rolled; she did not roll at all.

Redirect Examination

Mr. McCLANAHAN.—Q. You have been asked to bring here a chart, which is the chart made early in December, and from which you copied or which formed the basis for your chart which is introduced here as Libelant's Exhibit 1. Have you got that chart with you?

A. Yes; there it is (handing).

Q. In what particular does that chart differ from the chart which is introduced in evidence as Libelant's Exhibit 1?

A. In the "Beaver's" speed from 3:10 to 3:15.

Q. What is the difference?

A. The difference is 400 feet. [292—173]

Q. Well, I mean what is there on Libelant's Exhibit 1 which is not on this chart?

A. This chart is based upon that the "Beaver" was going at 84 revolutions, or 83, up to 3:10, and

(Testimony of Captain Olaf Lie.)

from 3:10 she slowed down to 76 then.

Q. I find on Libelant's Exhibit 1 a notation of the position of the "Beaver" at 3:13½, and I do not find that on your chart that I am examining you on. Why is it not there?

A. That is according to the language of the libel.

Q. What libel?

A. The libel of the "Beaver."

Q. What libel? A. The first libel.

Q. Which is according to the language of the first libel?

A. 3:13½, which was put in the libel as the first time that the "Beaver" heard the "Selja's" whistle.

Q. 3:13½? A. 3:13½.

Q. That information you did not have when you drew this chart which I am examining you on?

A. No, sir.

Q. Is that the only difference between the two maps?

A. I think so. Of course; of course it may be a little different—I did not lay this on top and copy it. I took the bearings on it, and that is all. I took the same bearings, you see, and put them on that chart.

Mr. McCLANAHAN.—I introduce this map which the captain has identified as the one from which Libelant's Exhibit 1 was taken, and ask that it be marked Libelant's Exhibit 12.

(The map is marked Libelant's Exhibit 12.)

The WITNESS.—I want to say that on this chart—

(Testimony of Captain Olaf Lie.)

Mr. McCLANAHAN.—Q. (Intg.) What are you pointing to now, when you say "this chart"—Libelant's Exhibit 12?

A. Yes, Exhibit 12.

Q. Is that what you are pointing to? [293—174]

A. Yes, I put on the course according to Captain Kidston's evidence, to take him two and a half miles off Point Reyes, which is about 3/16ths of a mile outside of the collision given by me,—the point of collision given by me. And also I have figured that that is not correct. That is only loosely according to the other chart about the 30 fathom curve of it, what it ought to be, but that is not correct.

Q. That isn't on the other chart, the 30 fathom?

A. No, sir.

Q. You just drew it in here?

A. This dotted line. I was sitting home and did not think much of it.

Q. You are now pointing to a dotted line on Libelant's Exhibit 12? A. Yes, sir.

Q. And that is what you refer to as the 30 fathom curve? A. About. I don't say that is correct.

Q. Captain, suppose that half speed is six knots, and you ring up a slow bell, what would you say, if you were asked the question, that the speed of the "Beaver" was under the slow bell,—if you were ignorant of her revolutions?

A. You said "Beaver."

Q. I mean "Selja."

A. Well, I would say probably 3½ to 4 knots.

Q. Under the same conditions, what would you say

(Testimony of Captain Olaf Lie.)

the speed of the "Selja" was if you knew that at six knots her engines were making 40 revolutions, and at slow she was making 20 revolutions?

A. She would make the same, provided the slip was the same; it could not be anything else.

Q. I do not think you have answered my question. Having the revolutions, if you knew the revolutions under the same conditions, and you knew that at half speed she was making 40 revolutions, what would her speed be if the revolutions were 20?

A. Three knots. [294—175]

Q. Three knots? A. Yes.

Q. Now, Captain, let us assume that a vessel is on a fixed course, that while on that fixed course you have the bearing of a sound or light. You proceed on that fixed course for a certain length of time, and you again take the bearing of that fixed light or sound; you also know the distance that you travel between the times that you have taken the first and the second bearing. Is there any other data that you must have in order to mathematically fix with exactness the distance that that sound or light was from the first bearing and from the second bearing, respectively? A. No, sir.

Q. If on your course of south 60 east the bearing of the Point Reyes siren at 2:30 was east by north, and 2:50 it was north 30 degrees east, and the distance run by the "Selja" from 2:30 to 2:50 was two knots, found so from being logged, is there any other data required to determine the distance the "Selja" was from trom the siren at 2:30 and 2:50 respectively? A. No, sir.

(Testimony of Captain Olaf Lie.)

Q. Can that distance from that data be determined with mathematical certainty?

A. Yes, sir.

Q. Now, if the bearing of the Point Reyes whistle was found at 3 o'clock to be due north magnetic, did that bearing prove or disprove the bearing which you had taken at 2:30 and 2:50, respectively?

A. It would prove the correctness of it.

Q. It would prove the correctness of it?

A. Yes.

Q. If you found the whistle bearing due north at 3 o'clock, would that bearing prove or disprove the distance the sound was from the "Selja" at 2:30 and 2:50 respectively? A. No, sir.

Q. Would it prove or disprove it?

A. I said no. It would just [295—176] corroborate the correctness of it.

Q. Your answer is it would prove the correctness of the distance? A. Yes.

Q. Captain, in your giving us the Norwegian interpretation of rule 16, I notice that you left out the word "apparently" and put it in the American rule. Was that an inadvertence?

A. That is wrong, because it is in the Norwegian rule.

Q. The word "apparently" is in the Norwegian also? A. Of course it is in the Norwegian rule.

Q. That is what I am trying to get at. So that the only difference between the rules would be the word "surely" or "definitely"?

A. Yes, that is all.

(Testimony of Captain Olaf Lie.)

Recross-examination.

Mr. DENMAN.—Q. Now, Captain, you say that if you have the whistle bearing and distance travelled, that is the whistle bearing from a fixed point and distance travelled, you can determine the distance from the fixed point. That is correct, is it?

A. If I had the two bearings and the distance run between them, yes.

Q. That, of course, is based upon the accuracy of the transmission of the sound through the fog, isn't it?

A. That is based upon the sound only; we do not take any other bearing than the sound.

Q. That is based upon the accuracy with which that sound travels through the fog, isn't it?

A. Yes.

Q. And it is based on your theory that the sound always travels accurately and straight through the fog, straighter and faster than it does through the clear air; that is correct, is it?

A. I do not know if it goes any faster; but I never found it to go anywhere else but straight. [296—177]

Q. It is based on your theory, is it? A. Yes.

Q. Now, on the chart, on the United States that you have here, and which was the basis of your calculations prior to using exhibit 1, you say that if at 3 o'clock you were in the place you thought you were and as described on exhibit 1, you could not possibly have had 35 fathoms of water, as far as that chart shows; that is correct, isn't it?

(Testimony of Captain Olaf Lie.)

A. If that bearing is taken right—

Q. (Intg.) I am asking you now.

A. Was that at 3 o'clock you asked?

Q. 3 o'clock.

A. No, it does not show 35 fathoms, if I said a mile between the two bearings.

Q. So that if the position then at 35 fathoms of water on the chart be correct, you could not have been where this chart, exhibit No. 1, shows you were?

A. Not exactly, but that there is not based upon anything of the evidence given before anybody; it is based on the first bearing—

Q. What is that?

A. It is based on the two bearings I took first and the bearing taken by the first officer.

Q. But these observations do not fit in to the observation giving you a sounding of 35 fathoms at 3 o'clock, do they?

A. No, it does not fit in to that.

Q. Now, do they fit in with a series of soundings from 2:50, including 2:50 to 3:10, all of which were 35 fathoms—does it fit into that?

Mr. McCLANAHAN.—I object to that question as not proper recross-examination, as a matter gone into on cross-examination and gone into thoroughly.

A. I can make it fit if I take a quarter of three-eighths of a mile further out.

Mr. DENMAN.—Q. Well, if you take a quarter of three-eighths [297—178] of a mile further out, will you then get the distance between your bearings that you claim you had?

(Testimony of Captain Olaf Lie.)

A. Not exactly, but I do not think it would be very much out.

Q. It would be a good deal out, would it not?

A. Well, I don't know exactly how much it would be out.

Q. It would not fit at all, would it?

Mr. McCLANAHAN.—I object to that,—

A. It would not be very much out.

Mr. DENMAN.—Q. All right. Just draw it. Take the large chart.

A. I will take this chart.

Mr. McCLANAHAN.—Q. Do you know what you are going to do?

A. I know exactly. (Witness illustrates.)

Q. Now, what have you got there? Mark it.

A. This is at 3 o'clock.

Q. About 3 o'clock there.

A. There is 3 o'clock, and there is 2:50 (pointing).

Q. Run an arrow down.

A. There is 2:30 here. That is marked 4. Now I will take the last bearing. I have got to take a mile instead of that bearing. She travelled practically a mile. Now we will take the bearing; it is south 21 degrees east of Point Reyes; two and three quarters of a mile.

Q. What is it? A. Off.

Q. At what time?

A. That is at the time of the collision.

Mr. DENMAN.—Q. Now, Captain, is the point marked "3 o'clock" in 35 fathoms of water?

A. It does not say anything there.

(Testimony of Captain Olaf Lie.)

Q. That is, I mean to say, what is it between?

A. It is 34 and 30.

Q. Between 34 and 30 fathom marks, is it not?

A. Yes.

Q. Is that what you call 35 fathoms?

A. I have got to stick to [298—179] the other bearings.

Q. I am not talking about the other bearings. Is that what you call 35 fathoms?

A. No, it is not thirty-five fathoms; it may be.

Q. Is that the way you read those charts?

A. I have got to go—

Q. I say is that the way—

Mr. McCLANAHAN.—Let him answer the question. Finish your answer, Captain.

A. I have got to have the soundings which was before, I can't rely upon the first.

Mr. DENMAN.—Q. I am not asking you about that. I am asking you about that one sounding at 3 o'clock that you have marked there.

Mr. McCLANAHAN.—He says he cannot answer the question without taking the soundings into consideration.

Mr. DENMAN.—He can answer if you do not interrupt with your remarks.

Q. I asked you as to that sounding. Does that show 28 fathoms on the chart?

A. It does not exactly.

Q. It is inside the 34 fathom mark, isn't it, and between that and the 30 fathom mark?

A. Yes—but anybody who has taken soundings

(Testimony of Captain Olaf Lie.)

there—it does not appear and nobody can swear what it is.

Q. I am simply asking you as to it here. Now, at the point of collision, how far are you from the 35-fathom mark, according to this calculation?

A. From the nearest 35-fathom mark upon the chart?

Q. This is 35 fathoms off here. How far was the ship from the nearest 35-fathom mark, about half a knot isn't it? A. About half a knot.

Q. And that is between the 30-fathom mark and the 34-fathom [299—180] mark, isn't it?

A. It is. Let me explain again: nobody can tell what the depth there is.

Q. That is your theory of the case. Now, you recollect, Captain, that you said before the Inspectors that the way you found where you were was by checking off your various soundings as you passed Point Reyes? A. Yes.

Mr. McCLANAHAN.—I object to this line of examination as improper recross-examination. I do not think I mentioned the word "sounding" in my redirect examination.

Mr. DENMAN.—But you did mention, of course, where she was by whistle bearings. Repeat the question.

(The last question repeated by the Reporter.)

A. Yes.

Q. And you now say that you make your calculations entirely by whistle bearings; is that correct?

Mr. McCLANAHAN.—I object to that as not a

(Testimony of Captain Olaf Lie.)

proper statement of what the witness said.

Mr. DENMAN.—I am asking what he said.

Mr. McCLANAHAN.—No, you assume he said it.

A. That corresponds as near as I could get it on the chart I had with the bearings given by the first officer—no. It corresponded with the bearing—I mean to say that the distance run between the two bearings corresponded with the depth given to me by the first officer.

Mr. DENMAN.—Q. Now, Captain Lie, pursuing recross-examination, you stated that if you had known how much the vessel was logging at half speed, you would have said—that is, if you knew how many revolutions she was making, you could figure more accurately than [300—181] you could if you simply rang down the signal. When you give a signal to the engine-room for half speed, how many revolutions do you expect to get?

A. Well, I do not know exactly; that depends; it may be 60; it may be 55. I do not know.

Q. May be 60 or 55?

A. At half speed it may be 40 or it may be 45. I do not mean the other, because 65 is full speed. I did not mean that, I was wrong there. I mean that half speed is generally 40 to 45.

Q. But you did know, didn't you, when you made your calculations that day—

A. (Intg.) That was given to me—

Q. (Contg.) Wait a minute. You did know when you made your calculation that day—

A. (Intg.) No, sir.

(Testimony of Captain Olaf Lie.)

Q. (Contg.) Wait a minute. You do not know what I am speaking of. You did know when you made your calculation on that day off Point Reyes that she was logging under half speed at the rate of six knots an hour, didn't you? A. Yes, sir.

Q. When you went slow speed it was presumably half of that, was it not?

A. No, sir. I should say that slow speed is generally little more than half of it. The telegraph does not show the revolutions.

Q. It does not show the revolutions?

A. No, sir.

Q. Could it be less than that?

A. No, I do not think it could be less, although I do not know. I said that the speed is generally three and a half knots to four knots, but it may be less, sometimes.

Q. So that when you gave the order to go at half speed at 3:05 you might have been making four knots an hour under your theory—you might have been?

A. Yes.

Mr. HENGSTLER.—I would like to ask one or two questions of [301—182] the captain.

Q. Captain, when you navigate your vessel in a fog, what rules do you use in your maneuvers?

A. I ring the telegraph. Do you mean the telegraph?

Q. No. What rules of navigation do you use?

A. I use the International Rules.

Q. Do you use the Norwegian version or the English version of the International Rules?

(Testimony of Captain Olaf Lie.)

Mr. McCLANAHAN.—Let me understand the position of the examiner. Do I understand he is now examining Olaf Lie as the libelant in his case?

Mr. HENGSTLER.—Yes—in all the cases. The cases have been consolidated, I understand. There is no distinction. I simply want to find out the facts.

Mr. McCLANAHAN.—I understand the situation, but I want to know your attitude towards the witness, whether it is that of his counsel or whether it is that of an antagonist.

Mr. HENGSTLER.—No. My attitude towards the witness is as proctor for the libelants in one of these libels; I am trying to find out what the facts of the case are.

Mr. McCLANAHAN.—I want to know so that I can object to leading questions.

Mr. HENGSTLER.—I think it makes no difference whether I am Captain Lie's counsel or opposed to him, as long as—

Mr. McCLANAHAN.—I would like to know about this. It makes a difference on the ground whether I object to your questions, or not.

Mr. HENGSTLER.—All I want to know is the facts. [302—183]

Mr. DENMAN.—I would like to know about this. Let me ask Mr. Hengstler a question: Do I understand that Captain Lie is your client on his own behalf or merely as trustee for certain cargo owners?

Mr. HENGSTLER.—Captain Lie is not my client. He is simply appearing in my suit as bailee or trustee for my clients. I am not representing him person-

(Testimony of Captain Olaf Lie.)

ally in any way.

Mr. McCLANAHAN.—The same capacity that he appears for me.

Mr. HENGSTLER.—I do not know in what capacity he appears for you.

Mr. McCLANAHAN.—He is representing the ship.

Mr. HENGSTLER.—I know in what capacity he appears for me.

Mr. DENMAN.—Mr. McClanahan, are you not suing for Captain Lie's personal losses?

Mr. McCLANAHAN.—Yes, and he is also suing as the representative of the shipowners, as he also is suing as representative of the cargo owners.

Mr. DENMAN.—As I understand it, then, if the cargo interests and the ship interests should be antagonistic, that Mr. Hengstler, as far as we are concerned, is the representative of the cargo.

Mr. McCLANAHAN.—I cannot understand how Mr. Hengstler is prejudiced in this case by the winning or the losing of either side.

Mr. HENGSTLER.—That is a question which will appear later.

Mr. McCLANAHAN.—A question of law?

Mr. HENGSTLER.—Which I do not care to state at the present time; it is a question of law.

(The last question read by the Reporter.)

A. The Norwegian. [303—184]

Mr. HENGSTLER.—Q. Captain, do you remember the Norwegian version of the rule which you followed in this case when you heard a whistle for-

(Testimony of Captain Olaf Lie.)

ward of your beam in the fog?

Mr. McCLANAHAN.—I object to that question as being immaterial, irrelevant and incompetent, what the Norwegian version of it is. The case is to be decided on the American version.

A. In answer to that, I know the rules of the road but I cannot place it in the paragraph. I know what to do when I heard the whistle.

Q. At the time when you hear this whistle you follow the Norwegian rule? A. Yes.

Q. In the Norwegian version, do you not?

A. Yes.

Q. What is that rule in the Norwegian version? Can you write it out for us, Captain? A. Yes.

Mr. McCLANAHAN.—You mean the Norwegian of it?

Mr. HENGSTLER.—Yes. I would like to have it written out.

Mr. McCLANAHAN.—Do you want the whole rule?

Mr. HENGSTLER.—Just the second part of the rule, Captain.

Mr. DENMAN.—Q. Captain Lie, you have handed me certain data concerning the problems you have worked out here. A. Yes.

(Testimony of Captain Olaf Lie.)

Q. With your permission I will look it over for a day or so and ask you about it in the course of the case—study this data. A. Yes.

Mr. McCLANAHAN.—Then on redirect examination I introduce that in evidence.

Mr. DENMAN.—I do not believe you have got the right to introduce in evidence self-serving testimony. Put it in, if you want to.

Mr. McCLANAHAN.—I will ask to have it marked Libelant's Exhibit 13. [304—185]

(The paper is marked Libelant's Exhibit 13.)

Mr. DENMAN.—If this is put in on redirect examination I may desire to recall the witness, after having examined it at leisure, it involving mathematical calculations taking time to work out.

Mr. HENGSTLER.—Q. Captain, is this a literal version of the rule, of the International Rule No. 16 in the Norwegian language?

A. That is the latter part of the paragraph to avoid collision in a fog.

Mr. McCLANAHAN.—Q. Latter part of paragraph 16? A. Yes.

Mr. HENGSTLER.—Q. Is this the exact rule which you followed in maneuvering your steamer at the time of this accident? A. Yes, sir.

Mr. HENGSTLER.—I want to offer this in evidence. I will ask to have it marked Intervening Libelant's Exhibit "A."

(The paper is marked Intervening Libelant's Exhibit "A.")

Mr. DENMAN.—Q. Now, Captain Lie, you said

(Testimony of Captain Olaf Lie.)

this is the exact rule you followed. You mean by that that is the rule that you had in mind and intended to follow by the various courses and distances you have described—that is what you mean?

A. That is the rule I followed.

Q. You did not do anything that you have not already indicated in the testimony had?

A. I have already given it.

Q. You have given all that you have to say about what you did there—you have nothing further?

A. Yes, I think I have said all that I have to say, I think so.

Q. That is, it is a complete account of what you did in attempting to follow the rule?

A. Yes. I may say that is the latter part of the rule.

(An adjournment was here taken until to-morror, June 15, at 10 A. M.) [305—186]

Thursday, June 14th, 1911.

[Testimony of D. W. Dickie, for Libelant.]

D. W. DICKIE, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. How old are you, Mr. Dickie? A. I am 33.

Q. What is your residence?

A. Berkeley, California.

Q. What is your business?

A. Naval architect.

Q. How long have you been engaged in that business?

A. Since I was 16 years old; I went to work at the Union Iron Works in the various shops as an ap-

(Testimony of D. W. Dickie.)

prentice boy, and after four years I was put into the drawing-room for two years, and from there I went into the Government Service as a first-class draughtsman, and at the end of a year I was promoted to be chief draughtsman in the Navy Department at the Naval Constructor's office at Seattle, Washington; after staying there for two years I went to Great Britain and took a post-graduate course in Glasgow University two years in engineering and naval architecture, and in the vacations, in the meantime I was employed at the John Brown & Company—called the Clyde Bank Shipyard—on the Coronel and Carmany, Atlantic liners; after I left Great Britain I came back to this country and worked at the Newport News Shipbuilding Yards and Fore River Shipbuilding Company, and after coming to this coast have been associated with my father in business, and with my brother in business, we three being in the same office together. That covers the time from when I first went to work up to the present time.

Q. You know something about the facts of this case, do you, Mr. Dickie, from what I have told you?

A. From the evidence that you have submitted to me I made myself [306—187] familiar with the facts of the case, the two ships.

Q. You know the steamship "Beaver"?

A. Yes.

Q. Did you know the "Selja," what kind of a vessel she was? A. Yes.

Q. What kind of a ship was she?

A. The "Selja" was a tramp steamer with the

(Testimony of D. W. Dickie.)

engines amidships, and a hold at each end, of the standard type built in Great Britain about this time, representing probably what is known as the highest type of tramp that is doing business all over the world to-day.

Q. There is a standard for that class of vessels?

A. That vessel has grown by a process of elimination and assimilation into that form, so that now she represents a type of tramp which belongs to the advanced age in which we are living.

Q. I am now, Mr. Dickie, going to give you some data, first pertaining to the "Beaver," which you may bear in mind as you make answer to the questions which will follow, and I am going also to give you some data pertaining to the "Selja," which you may make the same use of. You will assume that this data which I am going to give you pertaining to both vessels is true, as far as you can. The speed of the "Beaver" on her trial trip is said to have been 17.6 knots per hour; her draught on the trial trip was 13 feet 9 inches forward and 17 feet aft, and her corresponding or mean displacement at those draughts was 4400 tons. Her indicated horse-power is 4448, and the revolutions on the trial trip, the maximum revolutions, were 86. You may assume also that her displacement fully loaded on a mean draught of 19 feet 6 inches would be 5950 tons. You may assume that the pitch of her propeller on her trial trip was 22 feet and 3 inches, and you may also [307—188] assume that that vessel's displacement on November 22d, 1910, on a draught of 16 feet 4½ inches was 4800

(Testimony of D. W. Dickie.)

tons. You may also assume that the "Beaver" was docked in August, 1910, and her bottom cleaned and painted. As to the length and beam of the "Beaver," do you know what they are? A. Yes.

Q. What are they?

A. Her length is 364 feet, and the beam is 47 feet.

Q. The beam over the plating?

A. The beam over the plating, yes.

Q. And the length between the barriers?

A. Length between perpendiculars.

Q. Now, as to the steamship "Selja," you may assume that her length between perpendiculars is 380 feet, her beam over the plating is 49 feet, her loaded draught 23 feet 6 inches, her displacement on loaded draught 10,275 tons. You may assume that her draught on her trial trip forward was 7 feet and 11 inches, and aft 15 feet, and that her corresponding displacement was 4660 tons. You may also assume that the pitch of her propeller is 16 feet 3 inches; that her maximum revolutions on her trial trip were 74, and her indicated horse-power at those revolutions 1989; that at the maximum revolutions on her trial trip her speed was 11 knots; you may also assume that her mean draught on leaving Yokohama, Japan, was 18 feet 2½ inches, and that she consumed in coal on the voyage up to the time of the collision on November 22, 780 tons; you may also assume that the revolutions of her engines under full speed on this voyage were 64.

Mr. DENMAN.—What is the purpose of this examination?

(Testimony of D. W. Dickie.)

Mr. McCLANAHAN.—Of what examination?

[308—189]

Mr. DENMAN.—Of the witness.

Mr. McCLANAHAN.—I have not examined the witness. I am giving him this data now.

Mr. DENMAN.—What is the purpose of this. You are giving certain data to your witness; what is the purpose of this examination?

Mr. McCLANAHAN.—I am preparing him for hypothetical questions.

Mr. DENMAN.—I mean in reference to what?

Mr. McCLANAHAN.—Relative to material matters involved in this case.

Mr. DENMAN.—I mean, what particular point.

Mr. McCLANAHAN.—That will develop.

Mr. DENMAN.—How can I follow it if I do not know what the purpose of it is?

Mr. McCLANAHAN.—I decline to answer more particularly than that.

Mr. DENMAN.—I protest against this method of carrying on a case by opposing counsel. I am simply trying to find out for what purpose this mass of data is given to the witness. It is absolutely impossible to follow the examination intelligently, with a mass of data of this kind, unless the purpose of the examination be told to counsel. We claim the right of counsel to know what the purpose of the testimony is.

Mr. McCLANAHAN.—Q. Mr. Dickie, have you made some models, rough models of the "Beaver" and the "Selja"? A. Yes.

Q. Are they here in court? A. Yes.

(Testimony of D. W. Dickie.)

Q. Will you please produce them?

A. There is the model of the "Beaver" and there is the model of the "Selja" (producing).

Q. They are drawn to a scale, are they?

A. They are drawn to a [309—190] scale, yes.

Mr. McCLANAHAN.—I will introduce the model of the "Beaver" as Libelant's Exhibit 14, and the model of the "Selja" as Libelant's Exhibit 15.

(The models are marked respectively Libelant's Exhibits 14 and 15.)

Q. Referring now to Exhibit 14, Mr. Dickie, which is the model for the "Beaver," I see there is a line drawn across the bow of the model. What is the distance from the stem of the "Beaver" to that line on the port side? A. 18 feet.

Mr. DENMAN.—May I now inquire the purpose of asking these questions, what you expect to prove by the witness by this?

Mr. McCLANAHAN.—My answer is the same.

Mr. DENMAN.—That is, you decline to state it; is that it?

Mr. McCLANAHAN.—Further than I have stated, that this witness is being examined as an expert on matters material to this case.

Mr. DENMAN.—I know, but what are you going to prove by him—what particular thing?

Mr. McCLANAHAN.—You will hear very soon.

Mr. DENMAN.—I cannot follow, cannot prepare my mind for this examination unless I know what you are after in putting in all this data that you have heretofore stated. I presume you have some pur-

(Testimony of D. W. Dickie.)

pose, and we are entitled to know in this case, as we are in any other case, what the purpose of counsel is.

Mr. McCLANAHAN.—Well, I cannot help you further than to repeat what I have said.

Mr. DENMAN.—Yes, you can.

Mr. McCLANAHAN.—Q. You say 18 feet on the port side? A. Yes.

Q. How far is it from the stem to the marking on the starboard [310—191] side? A. 10 feet.

Q. Mr. Dickie, if the "Beaver" on her course out through the Golden Gate passes the North Heads at 1:37 P. M., and Red Buoy No. 2 at 1:45 P. M., without changing the revolutions of her engines, the distance between these points being two knots, and proceeds under the same conditions until 3:10 P. M., how far would she have travelled and at what rate of speed from 1:37 P. M. to 3:10 P. M.?

A. The distance traveled would be 23¼ knots, and the rate of speed would be 15 knots per hour.

Q. If the "Beaver" traveled 23¼ nautical miles from 1:37 P. M. to 3:10 P. M., and her speed was 15 knots during that time, and assuming that the revolutions of her engines were 84 during that time, and the pitch of her propeller 22 feet 3 inches, what must have been the slip of her propeller?

A. 18.67 per cent.

Q. Under the same statement of fact as just given you in the last question, except you will assume that her engines were making 77 revolutions instead of 84 revolutions, what would be the slip of her propeller? A. 11.28 per cent.

(Testimony of D. W. Dickie.)

Q. If the "Beaver," in passing out through the Golden Gate, passes the North Heads at 1:37 P. M., and Red Buoy No. 2 at 1:45 P. M., without changing the revolutions of her engines, and under the same conditions continues her speed for a total distance of 23¼ knots measured from the North Heads, would it be possible that her engines were making only 77 revolutions during the run of 23¼ knots if her slip was more than 12 per cent?

A. It would not be possible.

Q. Would it be possible that her speed was only 11 knots? [311—192] A. No, sir.

Q. If the "Beaver," in passing out through the Golden Gate, passes the North Heads at 1:37 P. M., and Red Buoy No. 2 at 1:45 P. M., without a change in the revolutions of her engines, and under the same conditions continues for a total distance of 23¼ knots measured from the North Heads, would it be possible that her engines during the run were making 77 revolutions with a slip of 25 per cent?

A. No, sir.

Q. If the "Beaver's" speed is 15 knots per hour, with 84 revolutions, and the slip of her propeller is 18.67 per cent, what would be the speed of the vessel at the end of five minutes after the revolutions had been reduced to 76? A. 13.572 knots per hour.

Q. If the "Beaver's" speed is 15 knots with 84 revolutions and a slip of 18.67 per cent, what would be the vessel's speed if the revolutions are reduced to 77? A. 13.751 knots per hour.

Q. If the vessel's speed at 77 revolutions is 13.751

(Testimony of D. W. Dickie.)

knots per hour, what would be her speed at the end of five minutes if the revolutions are reduced from 77 to 76? A. 13.572 knots per hour.

Q. If the "Beaver's" engines are making 77 revolutions per minute, would it be at all practicable to change them to 76? A. Hardly.

Q. To what extent would a change of one revolution from 77 to 76 affect the "Beaver's" speed in an hour, with a slip of 18.67 per cent?

A. 0.179 knots per hour.

Q. If the "Beaver" was making 13.572 knots per hour, and put her [312—193] engines full speed astern, how long would it be before her headway would be stopped? A. Two minutes and 5 seconds.

Q. How far would the vessel travel during the two minutes and five seconds? A. 1295 feet.

Q. If the "Beaver" is going 13.572 knots per hour, and puts her engines full speed astern, what would be her speed through the water after traveling 900 feet from the point where her engines had been reversed? A. About 6.81 knots.

Q. Per hour? A. Per hour.

Q. Mr. Dickie, if the "Beaver" is making 13.572 knots per hour through the water, and without reducing speed changes her helm to starboard, and after her head under the starboard helm has swung one-half point to port her engines are then put full speed astern, and then her helm is put hard-a-port, would the vessel under these maneuvers be swinging rapidly to starboard at the end of one minute, or one minute and a half, after her helm had been put hard-

(Testimony of D. W. Dickie.)

a-port? A. No, sir.

Q. Would it make any difference if she was only making 10 knots? A. It would not.

Q. If the "Beaver" is said to have made 17.6 knots on her trial trip, with 86 revolutions, what would have been the slip of her propeller?

A. 6.794 per cent.

Q. What would have been her speed with 77 revolutions? A. 15.76 knots.

Q. Per hour? A. Per hour.

Q. If the slip of her propeller was 6.794 per cent, making 17.6 knots with 86 revolutions, what would the slip have to be if at 77 revolutions the vessel was only making 11 knots?

A. 34.97 per cent. [313—194]

Q. Considering that the "Beaver" had been docked four months before November 22d, 1910, and at the time had had her bottom cleaned and painted, and assuming that on November 22d, 1910, with 77 revolutions the vessel was only making 11 knots, what must have been the sea conditions on that day to account for the difference in the slip when the speed under trial trip conditions would be 15.76 knots at 77 revolutions, and on November 22d, 1910, was only 11 knots at 77 revolutions?

A. The difference of 28.18 per cent could not be accounted for except by a hurricane, in a ship of the type of the "Beaver."

Q. Could such a percentage of difference in the slip be possibly accounted for by a high, long, rolling swell in a calm? A. No, sir.

(Testimony of D. W. Dickie.)

Q. Assuming that under trial trip conditions, with 86 revolutions, the "Beaver" made 17.6 knots per hour, would it be possible that her speed was only 11 knots if the revolutions were 77 and the slip 25 per cent? A. No, sir.

Q. What would be the difference in the speed of the "Beaver" between 77 and 76 revolutions on a 25 per cent slip? A. .1648 knots per hour.

Q. What would that difference amount to in feet at the end of five minutes? A. 83.45 feet.

Q. What would be the "Beaver's" speed at 77 revolutions with a 25 per cent slip?

A. 12.69 knots.

Q. What would it be on the same revolutions with a 20 per cent slip? A. 13.52 knots per hour.

Q. To what extent would a change of one revolution from 84 affect [314—195] the "Beaver's" speed in one hour, with a slip of 18.67 per cent?

A. .179 knots per hour.

Q. Take under trial trip conditions with an indicated horse-power of 4448, would it be possible for the "Beaver" to make 17.6 knots per hour through the water?

A. Not at 4400 tons displacement, corresponding to a mean draught of 15 feet 4½.

Q. What would be the possible maximum speed of the "Beaver" through the water with 4448 indicated horse-power?

A. At 4400 tons displacement, which you gave me, it would be 16.42 knots in sea conditions, and 16.98 in smooth water with an absolutely clean bottom.

(Testimony of D. W. Dickie.)

Q. Suppose that the displacement was 4800 tons what would your answer be?

A. At 4800 tons the vessel would make 16.13 knots per hour at sea conditions, and 16.65 with an absolutely clean bottom and a smooth sea.

Q. Assuming that the "Beaver" with 84 revolutions traveled 22½ miles in one and a half hours, what would have been the slip of her propeller?

A. 18.67 per cent.

Q. Mr. Dickie, how long would it take the "Selja" to stop by reversing at full speed if she was making three knots? A. One minute and 26 seconds.

Q. How far would the "Selja" travel before coming to rest? A. 220 feet.

Q. How long would it take the "Selja" to stop by reversing at full speed if she was making 6 knots per hour? A. 2 minutes and 44 seconds.

Q. How far would the "Selja" travel before coming to rest under those conditions? A. 782 feet.

Q. How long would it take the "Selja" to come to rest, making [315—196] three knots from the time the engines were stopped but not reversed?

A. Nine minutes, 52 seconds, about.

Q. How far would she travel in that time?

A. About 1,819 feet.

Q. If the "Selja" was making three knots and her engines were stopped but not reversed, and she would travel 9 minutes and 52 seconds before coming to rest, what speed would she be going at the end of 5 minutes after her engines had been stopped?

A. Three-quarters of a knot.

(Testimony of D. W. Dickie.)

Q. If the "Selja" was going at the rate of three-quarters of a knot under stopped engines, and her engines were then reversed at full speed, how soon would she overcome her headway?

A. About 21 seconds.

Q. Under these circumstances what would be the speed of the "Selja" astern at the end of one minute? A. About 1.33 knots per hour.

Q. The "Selja's" speed, Mr. Dickie, was logged and found to be six knots on 40 revolutions of her engine; what would be her slip? A. 6.46 per cent.

Q. The "Selja's" engines, Mr. Dickie, at 3 o'clock are making 40 revolutions and remain at 40 until 3:05, when they are put at 20, and remain at 20 until 3:10, when they are stopped, and remain stopped until 3:15. What would be the distance traveled by the vessel from 3 o'clock to 3:15, with a slip of 6.46 per cent? A. About 6,270 feet.

Q. If the "Selja" with her engines full speed astern was making 3.33 knots astern at the moment of impact between the "Selja" and the "Beaver," and the angle of the two boats at that moment measured from their center lines was between 70 and 90 degrees, [316—197] and the markings on the "Beaver's" port bow show that she entered the "Selja" for a distance of 18 feet, and on the starboard bow for a distance of 10 feet, and these markings show an angle of 59 degrees, how is the difference between the angle of approach at the moment of impact and the angle shown by the markings on the "Beaver's" bow to be accounted

(Testimony of D. W. Dickie.)

for? A. By the stern motion of the "Selja."

Q. Could it be accounted for in any other way under the facts that I have stated to you? A. No.

Q. If the "Selja" is at rest and puts her engines full speed astern, what would be the distance she would travel in one minute from the point where she was at rest? A. About 100 feet.

Q. What would be her rate of speed at the end of one minute? A. About 2.0065 knots.

Cross-examination.

Mr. DENMAN.—Q. As I understand, your estimates, theoretical estimates of the rate of speed of the "Beaver" are based on the fact that she traveled some 23 and some odd knots from North Head; that is correct?

A. No. The estimates of speed and everything are based on the builders' trial trip conditions as stated by Mr. McClanahan.

Q. But, as I understand it, the basis of all these questions that she had covered 23 knots during the period under consideration—that is correct, isn't it?

A. No. Only two questions, I think.

Q. Only two questions on that?

A. Yes, about two questions.

Mr. McCLANAHAN.—Mr. Dickie states the distance travelled as 23.25 knots. [317—198]

Mr. DENMAN.—Q. Have you ever been on the "Beaver" and maneuvered on her?

A. How do you mean?

Q. Have you ever maneuvered on her, handled her? A. No.

(Testimony of D. W. Dickie.)

Q. Have you ever been on the "Selja," have you handled the "Selja"? A. No.

Q. The models of the two ships are the models that you have in front of you? A. Yes.

Q. When you are speaking of the slip—what do you mean by the word "slip"?

A. The slip per cent is the division of two numbers, one of which is the difference between the speed of the propeller working in a solid nut or in a solid screw—

Q. I understand.

A. (Contg.) And the speed of the ship through the water.

Q. That is a constant factor.

A. That number divided by the speed of the propeller in the solid nut.

Q. That is a constant factor with the ship always, isn't it? That is a given slip under all conditions?

A. No.

Mr. McCLANAHAN.—What slip is that?

A. No. There is no standard slip to a ship.

Mr. DENMAN.—Q. That factor is always at work, that is to say, theoretically—

A. The factor is always at work.

Q. On the vessel and every time the screw turns there is that difference? A. There is a slip.

Q. There is a slip. A. Yes.

Q. As far as that factor is concerned, that is constant? A. No, that factor is not constant.

Q. Do you mean to say the factor of difference between what she goes, what the screw goes through

(Testimony of D. W. Dickie.)

the solid and what the vessel [318—199] goes through the water at a given number of revolutions is not a constant factor? A. No, sir.

Q. What would make it vary?

A. It will vary with the speed of the ship.

Q. Vary with the speed of the ship? A. Yes.

Q. I mean to say that that variation is a constant determinable thing?

A. It is a determinable thing, but it has a variation.

Q. It is a determinable factor? A. Yes.

Q. It varies on a scale that can be computed and determined? A. Yes, sir.

Q. That varies, of course, with the shape of the hull.

A. Varies with the shape of the hull, speed of the ship, pitch of the propeller, the diameter of the propeller, the weight of the propeller, weight factor—several mathematical variations that come in there.

Q. Now, of course, you have made all these calculations off those? A. Yes.

Q. Will you kindly prepare between now and the next time, or bring here, all of the sheets on which you have made the calculations with the actual additions, subtractions and multiplications.

A. That is impossible. The multiplications are made on the slide rule; you will find them all on the slide rule.

Q. The slide rule does not indicate that. I want that. I won't find what you did on the slide rule.

A. No.

(Testimony of D. W. Dickie.)

Q. The Court would not understand that from the slide rule. Prepare and work out for me each one of these problems, so that I can examine you when we come here another time; prepare them for me so that I can go over them and be able to intelligently cross-examine you. At the present time I do not feel capable of [319—200] doing that.

Mr. McCLANAHAN.—Q. How long will it take you, Mr. Dickie, to produce the data or the figures which Mr. Denman calls for?

A. About four weeks, roughly speaking. I might be able to do it in less time.

Mr. DENMAN.—Q. How long did it take you to prepare these figures that you brought here, Mr. Dickie? A. About four or five months.

Q. Been pretty constantly at work on it, haven't you? A. Off and on.

Q. A great deal of time devoted to it?

A. Considerable time. We have had to write for certain data and then after we would get that data we would work that out, and then find out there would be some part missing, and then we would have to write for that back again, and get it, so that we were working at intervals.

Q. This is data with regard to the "Beaver"?

A. With regard to the "Beaver" and the "Selja."

Q. Shape of the hull and all that sort of thing?

A. Not the shape of the hull; we got that from the testimony.

Q. What was this data?

A. This is data about the stopping and backing

(Testimony of D. W. Dickie.)

and reversing and one thing and another.

Q. You got that from other places. A. Yes.

Q. From Newport News?

A. No, no. The basis of this stopping, backing and reversing is on paper, or at least, the first record we have of it is from a paper of Mr. Hecht before the Institution of Naval Architects in London in 1888. We took Mr. Hecht's paper; likewise the discussion on the paper by Mr. McFarland Gray, another eminent mathematician, and applied it to the "Beaver" and the [320—201] "Selja." This showed the paper to be remarkably close. Now, in case a doubt might arise in the matter, my father, who is with us in the office, thought it would be wise to get considerable data to back up our calculations. This caused us to write to the British Board of Trade, who referred us to the Association for the Advancement of Science in Great Britain, and from their original records we went back as far as 1867, and took and found all the original records upon which Mr. Hecht's mathematics were based. Then we took data which we received through a friend of ours,—two friends of ours who are naval constructors in the United States Navy, on American warships, and put that all through the formulas; then we took merchant ships such as we could get, and we put those through the formulas in order to be absolutely sure that we were right. It has taken a great deal of time and a great deal of labor, but we have come to the point where we think it is right.

Q. Now, have you tried it on any ship since you

(Testimony of D. W. Dickie.)

have done this?

A. You mean, have I tried a ship to see if she would back in the time?

Q. Yes. A. No, I have not.

Q. Have you taken out any ship of the type of the "Selja" and tried her?

A. You mean tried her, tried the mechanical part of it?

Q. Yes. A. No.

Q. Or the "Beaver"?

A. No, we have the data though for other ships of that type taken by trained experts.

Q. Can you supply us with all that data?

A. If you wish it, yes. [321—202]

Mr. McCLANAHAN.—Q. Have you got the data with you?

A. I have, but I do not believe it is in such shape.

Mr. DENMAN.—Q. Bring it up to my office, Mr. Dickie.

Mr. McCLANAHAN.—Why not take it here. He will give it to you now.

Mr. DENMAN.—Mr. Dickie said he has not it here.

A. I have it here, but I do not think it is in such neat shape as I would like to have it.

Mr. McCLANAHAN.—We have no objection to your seeing the data.

Mr. DENMAN.—Of course, we are entitled to it.

Mr. McCLANAHAN.—But your request for figures covering the labor of four weeks, it seems to me, Mr. Denman, is wholly out of reason.

(Testimony of D. W. Dickie.)

Mr. DENMAN.—It may be; it might take four weeks to cross-examine this witness on these matters.

Mr. McCLANAHAN.—And at the end of that time you may not be able to cross-examine him.

The WITNESS.—Yes, we have the data here with us, but it is not in such shape that it could be examined into by anyone but an expert. I can put this into such shape that it be examined.

Mr. DENMAN.—Please do so.

Mr. McCLANAHAN.—Q. Mr. Dickie, can you put that in such shape as would be intelligible to an expert here?

A. Yes, I believe I can. It would depend on the expert largely.

Q. Who do you think could intelligently examine the data? A. I do not know.

Mr. DENMAN.—Is there any expert in town that has not been retained on your side of the case?

Mr. McCLANAHAN.—We have not exhausted the field. [322—203]

Mr. DENMAN.—Q. With whom have you discussed this matter, Mr. Dickie?

A. I have discussed it with my father and Mr. Heynemann.

Q. Mr. Heynemann; who is Mr. Heynemann?

A. Mr. Heynemann was formerly with the Fulton Iron Works; he is now employed with the Goldschmidt Thermit Company.

Q. Discuss it with any other experts? A. No.

Q. All right, Mr. Dickie. Prepare these matters

(Testimony of D. W. Dickie.)

for me, if you will, and then I will cross-examine you at some other time. I will resume the cross-examination when I have had an opportunity to examine this.

Mr. McCLANAHAN.—Then we are through with him for the present.

Q. Mr. Dickie, just one question. You were asked whether you had ever been on the "Selja" or the "Beaver"; the fact that you have not would not make any difference in your calculations respecting these things? A. None whatever.

Mr. DENMAN.—Q. Have you ever navigated any vessel at all, yourself?

A. Only of a small calibre.

Q. What do you mean by "small calibre"?

A. From 75 feet down.

Q. What do you mean by that, sailing vessels?

A. No; gasoline engine vessels.

Q. You never have handled a large ship yourself at sea? A. No, sir.

Q. By the way, would you care to qualify yourself as a navigator of ships? A. No, sir.

Q. One question about the slip and we will be through. We were speaking of the determinable factor in a slip; that is to say that is determinable from the physical construction of the ship and her given rate of speed. A. Yes. [323—204]

Q. There is another factor which you include in the slip which comes from external conditions, is there not? A. Yes.

(Testimony of D. W. Dickie.)

Q. That is the wind, weather and that sort of thing?

A. Yes—only as they affect the speed of the ship. You have there what we call a thrust deduction and augment of resistance; the one is due to the ship drawing after her a film of water about two feet thick, and the other one is due to the propeller working in this film of water.

Q. Of course if the propeller gets out of the water that has a material effect on it.

A. Yes, that has a material effect.

Q. On the speed of your vessel.

A. Destroys the speed of your vessel.

Q. At how many feet draught of water would the "Beaver's" propeller be exposed in a quiet sea?

A. About 17 feet—the propeller, the diameter of the propeller has not been given in the testimony so far. It has not been brought out, but we know it apart from that; so I am making that statement reservedly.

Mr. McCLANAHAN.—Q. What is the diameter as you have it?

A. The diameter of the propeller of the "Beaver" ought to be about 17 feet.

Q. Do you know what the propeller area of that propeller would be? A. About 92 feet.

Mr. DENMAN.—Q. So you will state when she was drawing 17 feet of water her propeller would be exposed?

A. Just the tip of it. You could see just the top of it. You see if she is drawing 17 feet of water

(Testimony of D. W. Dickie.)

and you have 17 feet of propeller, then it has that much clearance at the bottom that the [324—205] thickness of the plate—you would have by figuring up the 17 feet at the top say about two and a half the clearance between the tip of the plate and what you call the sole piece of the stern post, and the sole piece on that stern post, I should judge, would be about four inches, may be bigger than that; may be 6 inches thick; it would depend on the width of it.

Mr. DENMAN.—That will be all for the present, Mr. Dickie.

[Testimony of L. Heynemann, for Libelant.]

L. HEYNEMANN, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. How old are you, Mr. Heynemann? A. I am 53.

Q. You live here in San Francisco, do you?

A. Yes, sir.

Q. And what is your business?

A. At the present time I am the representative of the Goldschmidt Thermit Company.

Q. What is their business?

A. Theirs is a business of welding railroad iron and other material.

Q. How long have you been with them?

A. About four years.

Q. Prior to that what was your business?

A. Prior to that I was secretary of the Fulton Iron Works.

Q. How long were you with the Fulton Iron

(Testimony of L. Heynemann.)

Works? A. About 13 years.

Q. What were your duties while connected with the Fulton Iron Works?

A. My duties were rather varied. I had, first of all, the duties of the secretary of any corporation; then I had largely to look after the money end of the concern, and made [325—206] estimates for the repair of vessels, and exercised a general supervision of the works.

Q. Prior to the connection with the Fulton Iron Works, what did you do?

A. I was with the different iron works here. I was with the Union Iron Works and with the National Iron Works, with the Honolulu Iron Works.

Q. While with these iron wroks did you have anything to do with the construction of ships?

A. Not very much with the construction, no.

Q. What was your duty?

A. More or less with the repair of ships.

Q. Have you had any training that would fit you as an expert to determine various matters connected with the machinery of a ship, her speed, her ability to make speed?

A. Yes. I do not like the word "expert" very much, but I will state this, that I received my education at the Royal Polytechnic School of Hanover, Germany, and therefore I feel myself fitted to answer the questions proposed.

Q. By the questions proposed, you mean the questions that I intend to ask you?

(Testimony of L. Heynemann.)

A. That you intend asking me.

Q. You know what those questions are?

A. I know about what they are. They are more or less mathematical; that is to say, it takes some knowledge of mathematics to be able to answer these questions.

Q. Any other knowledge required to answer these questions?

A. Well, yes, I should say general experience in the business.

Q. What business?

A. In the business relating to vessels.

Q. Have you had that general experience?

A. I have had a general experience, yes.

Q. What does it consist of?

A. Well, as I said before, my duty at [326—207] the Fulton Iron Works was making estimates on vessels; that was one part of my duty. And in that way I acquired a knowledge of general conditions in this business.

Q. The general conditions which you refer to as necessary to answer these questions?

A. Yes, sir.

Q. How long did you so make estimates for vessels with the Fulton Iron Works?

A. Nearly all the time that I was there.

Q. That would be nearly for 13 years?

A. Yes. I generally made these estimates in conjunction with the marine superintendent; we would go on board together, as a rule.

(Testimony of L. Heynemann.)

Mr. DENMAN.—Does that finish the qualifications?

Mr. McCLANAHAN.—Yes.

Mr. DENMAN.—Q. Mr. Heynemann, how many vessels have you constructed in that time?

A. None.

Q. Have you ever had any business connection with the Fulton Iron Works which required the alteration of speed of a vessel? A. Yes, sir.

Q. What vessel was that?

A. Well, I could not tell you; there were quite a number of vessels where the propeller was altered.

Q. The propeller was translated? A. Yes, sir.

Q. But you never have had a problem presented to you to determine the construction of a new vessel?

A. No, sir.

Q. Nor the speed she would make?

A. Not of a new vessel.

Q. Have you ever been a navigator?

A. No, sir.

Q. Do you know anything about navigation?

A. I would not say I know nothing about it, but I have had no practical experience in navigation.

Q. Let me ask you a theoretical question to inform me personally [327—208] more than to qualify you. Suppose a vessel has a draught of 14 feet 3 inches forward, and a draught aft of 18 feet 6 inches, giving you a mean draft of 16 feet 4½ inches? A. Yes.

Q. And she develops a certain speed with a certain number of revolutions? A. Yes, sir.

(Testimony of L. Heynemann.)

Q. Now, presume you reverse that and you have 18 feet forward and 14 feet 3 aft. A. Yes.

Q. With the same mean draught would she develop the same speed? A. No, sir.

Mr. DENMAN.—That is all.

Mr. McCLANAHAN.—Q. I am going to give you certain data, which you may assume to be true. Of course, you know something about the facts of this collision? A. Yes, sir.

Q. The collision between the "Beaver" and the "Selja," in which the "Selja" was sunk?

A. Yes, sir.

Q. As to the "Beaver" these facts to be assumed are as follows: On her trial trip, with a draught forward of 13 feet 9 inches, and aft 17 feet—

A. (Intg.) Will you permit me, Mr. McClanahan, to interrupt you for a moment? I would like to get my own papers to see how that compares with the data that I have been working on. (Producing a paper.)

Mr. DENMAN.—You have a paper there?

A. Well, I have certain questions here.

Q. They are the questions prepared by Mr. McClanahan? A. Yes.

Q. And you have prepared answers to them?

A. I have certain notes on here that are more or less private.

Q. Well, this is a memorandum that you intend to answer from.

A. Well, there are certain answers here that are

(Testimony of L. Heynemann.)

not correct; [328—209] therefore I do not want to give it up.

Q. Well, if that is a memorandum from which you are going to answer, the law will permit me to examine it.

A. Well, this is the memorandum—examine it if you like.

Q. You say these answers are not correct?

A. There are certain answers that have to be altered.

Q. When did you discover the errors in those?

Mr. McCLANAHAN.—That is a matter of cross-examination, Mr. Denman.

Mr. DENMAN.—This is for the purpose of examining him on this exhibit.

Mr. McCLANAHAN.—He has not produced any exhibit.

Mr. DENMAN.—He just said he had a paper; the evidence shows that.

Mr. McCLANAHAN.—You have interrupted me in the line of examination which I was pursuing.

Mr. DENMAN.—I am following the orderly procedure in the examination of an expert.

Mr. McCLANAHAN.—It is the disorderly procedure.

Mr. DENMAN.—The orderly procedure in the examination of an expert is—

Mr. McCLANAHAN.—Are you trying to teach me what I ought to do?

Mr. DENMAN.—I hope to teach you before I get through. The orderly procedure—

(Testimony of L. Heynemann.)

Mr. McCLANAHAN.—Well, if I am to be taught, I want to choose my professors.

Mr. DENMAN.—You will find when the court comes to rule on this that in this case there is one attorney that is right and [329—210] one that is wrong, as is often in a case. The orderly procedure in the examination of an expert is, after the attorney that produces him has finished with qualifying questions, that opposing counsel may examine the expert on qualifying questions. That has been done here. Now, let me take the exhibit.

Mr. McCLANAHAN.—Just wait a minute.

Mr. DENMAN.—Let me have the memorandum you refer to.

Mr. McCLANAHAN.—Just wait a minute before showing him your private papers. Let the record show that the orderly procedure so called by Mr. Denman has been complied with; he has examined the witness as an expert, or cross-examined him, and has submitted the witness to his examination. I am now in the midst of or about to commence my examination; therefore, we object to any production of data not yet called for or hinted at, and I would like to have the stenographer read my question which has caused the interruption.

(Thereupon the last question was read by the Reporter.)

Mr. DENMAN.—Read the answer to it, of the witness.

(The answer of the witness was read by the Reporter.)

(Testimony of L. Heynemann.)

I am entitled to see the paper.

Mr. McCLANAHAN.—You are not entitled to it until the cross-examination.

Mr. DENMAN.—I am entitled to it at the same time, at once.

Mr. McCLANAHAN.—He has not taken up anything.

The WITNESS.—I do not need to take it up at all.

Mr. McCLANAHAN.—That is settled. Read the question and answer, Mr. Reporter.

(The Reporter reads the last question and answer.) [330—211]

Q. Now, Mr. Heynemann, you can produce, if you wish, the data referred to by you and see if it checks up with my question. The "Beaver's" draught forward on her trial trip was 13 feet 9 inches, and 17 feet aft. A. Yes.

Q. Her corresponding displacement on the trial trip, with that draught, was 4400 tons; on her trial trip she is said to have made 17.6 knots per hour on 86 revolutions of her engines, and an indicated horsepower of 4448. A. Yes.

Q. The pitch of her propeller on the trial trip was 22 feet 3 inches. The "Beaver's" displacement fully loaded is 5950 tons, on a mean draught of 19 feet 6 inches. Her displacement on November 22d, 1910, was 4800 tons, on a mean draught of 16 feet 4½ inches; the "Beaver" was docked and her bottom cleaned and painted in August, 1910. So much for the "Beaver." Now for the "Selja." The length of the "Selja" between perpendiculars is 380 feet,

(Testimony of L. Heynemann.)

her beam over the plating 49 feet; her loaded draught 23 feet 6 inches; her displacement at the loaded draught 10275 tons; her draught forward on the trial trip 7 feet 11 inches; her draught aft on the trial trip 15 feet, and her corresponding displacement 4660 tons. The pitch of the "Selja's" propeller is 16 feet 3 inches; her maximum revolutions on the trial trip 74. Her indicated horse-power at those revolutions on the trial trip 1989. The speed of the "Selja" at her maximum revolutions on the trial trip was 11 knots. Her mean draught was on leaving Yokohama 18 feet 2½ inches, and the coal consumed on the voyage up to the time of the collision was 780 tons; and the revolutions on the voyage from Yokohama at full speed to this port was 64.

A. Yes.

Q. Now, Mr. Heynemann, if the "Beaver" on her course out through [331—212] the Golden Gate passes the North Heads at 1:37 P. M., and Red Buoy No. 2 at 1:45 P. M., without changing the revolutions of her engines, the distance between these two points being two knots, and proceeds under the same conditions until 3:10 P. M., how far would she have travelled and at what rate of speed from 1:37 P. M. to 3:10 P. M.? First, how far would she have travelled?

A. Well, now, the total distance is what? Have you got that?

Q. The distance between the two points is two knots. I ask you what the total distance the vessel would have travelled between 1:37 P. M. and 3:10

(Testimony of L. Heynemann.)

P. M. is. You say you have figured that out already? A. I have figured it.

Q. To save time will you please refer to the figures that you have made on that and give me the answer.

A. I remember the answer. The answer is—it will be at the rate of 15 knots.

Q. And what would be the distance travelled?

A. I think it was 23 knots. (The witness refers to a paper.)

Mr. DENMAN.—Q. What is this paper?

Mr. McCLANAHAN.—Q. 23 knots and what?

A. 23.28.

Mr. DENMAN.—Q. You are answering from a paper? A. I am answering from this paper.

Q. What is that paper?

A. This paper is the list of questions.

Q. Is that the paper that you referred to a few minutes ago that had the erroneous answers in?

A. Yes.

Q. In other words, there were mistakes in some of the answers there? A. Yes, sir.

Q. How long had you been working on this before you found out the mistakes?

A. I had not been working on those particular questions at all until I looked at them again. [332—213]

Q. Well, how could you look at them again if you had not worked at them at all?

A. You mean how long I originally worked on them?

(Testimony of L. Heynemann.)

Q. Yes. A. I could not tell you, I don't know.

Q. Two or three months, was it not?

A. You mean on the entire list of questions?

Q. Yes.

A. I can say that this list was presented to me some time in February. That is, not this list but—no—this list was presented to me, I do not think it was more than two or three weeks ago; may be two weeks ago.

Q. You went to work and got certain answers?

A. Yes.

Q. Then you found you were mistaken?

A. Yes, I found in the case of several I was wrong, yes.

Q. Who called your attention to that?

A. Nobody.

Q. But you— A. I just went over the figures.

Q. Did you compare your figures with Mr. Dickie's? A. Yes.

Q. You discovered they were wrong then, didn't you? A. No.

Q. Did his figures differ from yours? A. Yes.

Q. Was he wrong or were you wrong?

A. I think that—well, are you referring to the questions where we discovered errors?

Q. Yes. A. We were both wrong.

Q. How long have you been working on the case yourself?

A. Since last February, off and on, I have been for several months.

Q. When did you discover that you both had

(Testimony of L. Heynemann.)

made errors in the calculations?

A. When we compared them.

Q. How long ago was that?

A. Well, that—we have been comparing these questions right along.

Q. When did you discover the errors, I mean? Since you received [333—214] that paper, was it not? A. Yes, since I received that paper.

Q. That was within the last three weeks, was it not? A. Yes, within the last three weeks.

Q. You are sure you are right now?

A. Yes, within the last two weeks.

Q. You are sure you are right now? A. Yes.

Q. Compare it with anybody else? A. No.

Mr. McCLANAHAN.—Q. Mr. Heynemann, you say the "Beaver" travelled 23.28 knots?

A. 23.25.

Mr. DENMAN.—I ask you not to change any data, Mr. Heynemann.

Mr. McCLANAHAN.—You can change what you please on that, Mr. Heynemann.

Mr. DENMAN.—Simply call it off the paper, and do not change the marks, Mr. Heynemann.

A. 23.25. I have it here.

Mr. McCLANAHAN.—Q. 23.25.

A. Yes, instead of 23.28.

Q. If the "Beaver" travelled 23.25 nautical miles from 1:37 P. M. to 3:10 P. M., and her speed was 15 knots during that time, and assuming that the revolutions of her engines were 84 during that time, and the pitch of her propeller 22 feet, 3 inches, what

(Testimony of L. Heynemann.)

must have been the slip of her propeller?

A. 18.67.

Q. Per cent? A. Per cent.

Q. Under the same statement of facts as I have just given you in the last question, excepting we still assume that her engines were making 77 revolutions instead of 84 revolutions, what would the slip of her propeller be? A. 11.28 per cent.

Mr. DENMAN.—Q. Are you answering those questions from a calculation that you are now making, or are you simply refreshing [334—215] your memory as to the results you obtained on a prior calculation by the use of that memorandum?

A. With reference to these answers, I can leave my paper face down and by the aid of a diagram that I have here I can answer all these questions in relation to the slip and revolutions and horse-power, without referring to the paper.

Mr. McCLANAHAN.—Q. You are simply using the paper to save time? A. That is all.

Mr. DENMAN.—All right. Go ahead.

Mr. McCLANAHAN.—Q. Your answer to the last question was 11.28 per cent?

A. 11.28 per cent.

Q. If the "Beaver," in passing out through the Golden Gate, passes the North Heads at 1:37 P. M., and Red Buoy No. 2 at 1:45 P. M., without changing the revolutions of her engines, and under the same conditions continues her speed for a total distance of 23.25 knots measured from the North Heads, would it be possible that her engines were making

(Testimony of L. Heynemann.)

only 77 revolutions during the run of 23.25 knots, if her slip was more than 12 per cent? A. No, sir.

Q. Would it be possible that her speed was only 11 knots? A. No.

Q. If the "Beaver," in passing out through the Golden Gate, passes the North Heads at 1:37 P. M., and Red Buoy No. 2 at 1:45 P. M., without a change in the revolutions of her engines, and under the same conditions continues for a total distance of 23.25 knots measured from the North Heads, would it be possible that her engines during the run were making 77 revolutions with a slip of 25 per cent?

A. No, sir.

Q. If the "Beaver's" speed is 15 knots per hour, with 84 revolutions, [335—216] and the slip of propeller as you have stated it, 18.67 per cent, what would be the speed of the vessel at the end of five minutes after the revolutions had been reduced to 76?

A. 13.572 knots.

Q. If the "Beaver's" speed is 15 knots per hour with 84 revolutions, and the slip of her propeller is 18.67 per cent, what would be the speed of the vessel if the revolutions are reduced to 77? A. 13.751.

Q. If the vessel's speed at 77 revolutions is 13.751 knots, what would be her speed at the end of five minutes if the revolutions are reduced from 77 to 76?

A. 13.572.

Q. If the "Beaver's" engines are making 77 revolutions per minute, would it be at all practicable to change them to 76? A. No, hardly practicable.

Q. To what extent would a change of one revolu-

(Testimony of L. Heynemann.)

tion from 77 to 76 affect the "Beaver's" speed in an hour, with a slip of 18.67 per cent?

A. 0.179 knots per hour.

Q. If the "Beaver" was making 13.572 knots per hour, and put her engines full speed astern, how long would it be before her headway would be stopped?

A. 125 seconds.

Q. How far would the vessel have traveled during the 125 seconds? A. 1295 feet.

Q. If the "Beaver" was making 13,572 knots per hour, and put her engines full speed astern, what would be her speed through the water after traveling 900 feet from the point where her engines had been reversed? A. 6.81 knots.

Q. If the "Beaver" is making 13.572 knots through the water, and without reducing speed changes her helm to starboard, and after [336—217] her head under the starboard helm has swung one-half point to port her engines are then put full speed astern, and then her helm is put hard-a-port, would the vessel under these maneuvers be swinging rapidly to starboard at the end of one minute, or one minute and a half, after her helm had been put hard-a-port?

Mr. DENMAN.—I do not believe he has qualified as a navigator.

A. I prefer not to answer that question.

Mr. McCLANAHAN.—Q. If the "Beaver" is said to have made 17.6 knots on her trial trip, with 86 revolutions, what would have been the slip of her propeller? A. 6.794 per cent.

(Testimony of L. Heynemann.)

Q. What would have been her speed with 77 revolutions? A. 15.76 knots.

Q. If the slip of her propeller was 6.79 per cent, making 17.6 knots with 86 revolutions, what would the slip have to be if at 77 revolutions the vessel was only making 11 knots?

A. Her slip would have to be 34.97.

Q. Per cent? A. Per cent.

Q. Considering that the "Beaver" had been docked four months before November 22d, 1910, and at the time had had her bottom cleaned and painted, and assuming that on November 22d, 1910, with 77 revolutions the vessel was only making 11 knots, what must have been the sea conditions on that day to account for the difference in the slip when the speed under trial trip conditions would be 15.76 knots at 77 revolutions, and on November 22d, 1910, was only 11 knots at 77 revolutions?

A. There must have been a hurricane to send the ship at that speed.

Mr. DENMAN.—Q. That is written on the paper there, isn't it? A. Yes. [337—218]

Q. Do you have to make a mathematical calculation to get that data, to find out it was a hurricane?

A. Yes, in this way, that you find, that you arrive at an absurd slip; otherwise there must be a hurricane to carry that vessel forward thus.

Mr. McCLANAHAN.—Q. Could such a percentage of difference in the slip be possibly accounted for— A. I have not given the per cent.

Q. What was the percentage of difference?

(Testimony of L. Heynemann.)

A. 28.18.

Q. Could such a percentage of difference in the slip be possibly acounted for by a high, long, rolling swell in a calm? A. No. There is the answer.

Q. Assuming that under trial trip conditions with 86 revolutions, the "Beaver" made 17.6 knots per hour, would it be possible that her speed was only 11 knots if the revolutions were 77 and the slip 25 per cent? A. No.

Q. What would be the difference in the speed of the "Beaver" between 77 and 76 revolutions on a 25 per cent slip? A. 1648 knots.

Q. Per hour?

A. Per hour. The knots always refer to the hour.

Q. What would that difference amount to in feet at the end of five miutes? A. 83.45 feet.

Q. What would be the "Beaver's" speed at 77 revolutions and 25 per cent slip? A. 12.69.

Q. What would it be on the same revolutions with a 20 per cent slip? A. 13.52.

Q. To what extent would a change of one revolution from 84 affect the "Beaver's" speed in one hour, with a slip of 18.67 per cent?

A. 0.176 at 20 per cent slip. I would have to figure that out. [338—219]

Q. Under trial trip conditions with an indicated horse-power of 4448, would it be possible for the "Beaver" to make 17.6 knots per hour through the water? A. No, it would not.

Q. What would be the possible maximum speed of

(Testimony of L. Heynemann.)

the "Beaver" through the water with 4448 indicated horse-power? A. It would be 16.65 knots.

Q. Assuming that the "Beaver," with 84 revolutions traveled 22½ knots in 1½ hours, what would have been the slip of her propeller? A. 18.67.

Q. Now, referring to the "Selja," Mr. Heynemann, how long would it take that vessel to stop by reversing at full speed when she was making three knots?

A. It would take her—I prefer not to answer that question just now.

Q. Why, Mr. Heynemann?

A. Because I have not got it down here. I will have to figure that out.

Q. Will you figure it out, please? A. Yes.

Q. Can you do it now? A. No.

Mr. DENMAN.—Why not?

Mr. McCLANAHAN.—We will reserve that.

A. Because it is too long a process.

Q. Do you know how long she would travel before coming to rest?

Mr. DENMAN.—Q. Have you ever figured that other question?

Mr. McCLANAHAN.—Wait a minute, I am in the midst of asking a question.

Mr. DENMAN.—Pardon me.

Mr. McCLANAHAN.—Q. The "Selja," under the conditions of the last question, how long would she travel?

A. Well, that belongs to that too. I prefer not to answer that now.

(Testimony of L. Heynemann.)

Q. You prefer to reserve that? [339—220]

A. I prefer to reserve that. Will you kindly give me that question again?

Q. How long would it take the "Selja" to stop by reversing at full speed if she was making three knots, and how far would she travel before coming to rest?

A. Yes.

Q. I want you also, Mr. Heynemann, to answer how long it would take the "Selja" to stop by reversing at full speed, if she was going at six knots.

A. All right.

Q. And how long she would travel before coming to rest, making six knots. A. I will do it.

Q. So one of the questions refers to three knots and the other refers to six knots. A. Yes.

Q. How long would it take the "Selja" to come to rest, making three knots from the time the engines were stopped but not reversed?

A. Well now, let me understand. These questions that you just asked were with reference to reversing, were they not?

Q. Yes. A. Backing.

Q. What questions do you refer to?

A. The last two questions that you asked me just now.

Q. The three and six knot questions?

A. The three and six knot questions, yes.

Q. They refer to reversing?

A. Yes, I think I can answer them. If the engines were making six knots and then reversed, her time

(Testimony of L. Heynemann.)

will be 164 seconds, and the distance traveled will be 782 feet.

Q. Now, with reference to the three knot speed. How long would it take the "Selja" to stop by reversing at full speed if she was making three knots?

A. I supposed I had that here, but I have not got it—yes, I have it here now. It would take the "Selja" [340—221] 86 seconds to stop by reversing full speed, if she was making three knots.

Q. How far would she travel before coming to rest? A. 230 feet.

Q. How long would it take the "Selja" to come to rest, making three knots from the time the engines were stopped but not reversed?

A. Those two questions, I would like the privilege of going over them.

Q. You mean the question I have just asked you?

A. Yes.

Mr. DENMAN.—Q. Those are what questions?

A. Questions 3 and 4.

Mr. McCLANAHAN.—Q. And the other question is, how far she would travel in that time. A. Yes.

Q. Let us understand now what you want to reserve answering: that question how long will it take the "Selja" to come to rest making three knots from the time the engines were stopped but not reversed—you prefer to reserve your answer to that?

A. Yes.

Q. How far would it travel in that time, you prefer to reserve your answer to that? A. Yes.

Q. What speed, Mr. Heynemann, would the

(Testimony of L. Heynemann.)

"Selja" be making under the conditions—well, you cannot answer that question until you have answered the third question.

A. Those questions belong together.

Q. The "Selja's" speed, Mr. Heynemann, was logged and found to be 6 knots on 40 revolutions of her engines; what was her slip? A. 6.46.

Q. Per cent? A. Per cent.

Q. The "Selja's" engines at 3 o'clock are making 40 revolutions, and remain at 40 until 3:05, when they are put at 20, and remain at 20 until 3:10, when they are stopped, and remain stopped until 3:15; what would be the distance traveled by the vessel from 3 [341—222] o'clock to 3:15, with a slip of 6:46 per cent?

A. That question belongs to the others.

Q. Do you want to reserve your answer to that, too? A. Yes.

Mr. DENMAN.—Q. What number is that question? A. That is No. 9.

Mr. McCLANAHAN.—That is it is numbered 9 on the memorandum from which the witness is testifying.

Q. If the "Selja" with her engines full speed astern was making 1.33 knots astern at the moment of the impact with the "Beaver," and the angle of the two boats at that moment measured from their center lines was between 70 and 90 degrees, and the markings on the "Beaver's" port bow show that she entered the "Selja" for a distance of 18 feet, and on the starboard bow for a distance of 10 feet, and

(Testimony of L. Heynemann.)

those markings show an angle of 59 degrees, how is the difference between the angle of approach at the moment of impact, and the angle shown by the markings on the "Beaver" to be accounted for?

Mr. DENMAN.—You have the answer written out there, haven't you? A. Yes, I have.

Mr. McCLANAHAN.—Q. What is the answer to the question, Mr. Heynemann?

A. By the stern motion of the "Selja."

Q. Is that difference in the angles to be accounted for in any other way under the facts stated?

A. It might be, if the angle of impact was different.

Q. I say, under the facts told you, can it be accounted for in any other way?

A. Now, let me see how that is. I prefer not to answer that question.

Q. If the "Selja" is at rest and puts her engines full speed astern, what would be the distance she would travel in one minute. [342—223] from the point where she was at rest, and what would be the rate of speed at the end of one minute?

A. 2.0064 knots rate of speed and 100 feet of travel.

Cross-examination.

Mr. DENMAN.—Q. Let me see the memorandum from which you have testified.

A. Yes. (The witness hands paper.)

Q. And the other one also. A. All right.

Mr. DENMAN.—I offer these in evidence.

(Testimony of L. Heynemann.)

(The papers are marked Respondent's Exhibit 1.)

Q. Now, whose handwriting is this on here, Mr. Heynemann? A. Mine.

Q. All of it?

A. I think so—no. That is not my writing. That I think is Captain Lie's handwriting.

Q. How about this second one, this 18.67.

A. That is Captain Lie's; I think that is Captain Lie's.

Q. That is the answer you gave, was it not?

A. Yes, that is the answer I gave.

Q. And also the third answer is in Captain Lie's handwriting? A. Yes.

Q. These are answers to the various questions that were put to you?

A. Not to various questions, but those particular questions. Where that answer agreed with my own I did not put my own answer down.

Q. So whenever you have your own answers here they disagreed with Captain Lie's prepared statement? A. No, I would not say that at all.

Q. What would you say about it?

A. Well, let me look at it to refresh my memory.

Mr. McCLANAHAN.—Let the witness have the paper if he wants to use it to answer the question.

Mr. DENMAN.—Q. As I understand it, you did work out the answers to all— [343—224]

Mr. McCLANAHAN.—Let him answer the question that you had asked him.

A. I would say that to various questions I note the

(Testimony of L. Heynemann.)

answer of Captain Lie. Wherever the answer agreed with my own, I did not add my answer. I would like to note—

Mr. DENMAN.—Q. Then, as I understand it—

Mr. McCLANAHAN.—Let him finish with his answer. Are you through, Mr. Heynemann?

A. I was going to say I would like to note the cause of this was, this paper being handed to me by Mr. McClanahan in his office, and probably the captain had seen that same paper, it probably belonged to the captain, and it got mixed up, but I did not take any particular reference to these answers.

Q. But you had these answers, didn't you, right along here.

A. I mean I took no particular reference to the answers of Captain Lie; I worked out my own answers.

Q. But this testimony that you have given here was the reading of the answers put on here by Captain Lie, was it not,—to a great many of these questions? A. Not a great many.

Q. It is true of question 2, is it not?

A. Question 2, yes.

Q. It is true of question 3, is it not?

A. Question 3, yes.

Q. That is true of question 6, is it not?

A. Question 6, yes.

Q. Also of question 7? A. No.

Q. Did you have a difference with Captain Lie?

A. Yes, a difference of one decimal in the third place.

(Testimony of L. Heynemann.)

Q. Let me ask you with reference to the others. Now with regard to the questions for the experts concerning the "Selja," that you have preferred not to answer. I notice in answering each one of [344—225] those from 1 to 12 you have put your answer in writing; is that correct? A. Yes.

Q. Why did you prefer not to answer those?

A. Because I prefer to go over my figures.

Q. Have you had a chance to compare those with Mr. Dickie's? A. I have, yes.

Q. Do they compare? A. Yes.

Q. Favorably? A. Yes.

Q. Well, why do you want to go over your figures? What is the matter with them?

A. Because I want to be absolutely sure that I am right.

Q. All right, Question 15: If the "Beaver" is making 13.572 knots through the water, and without reducing speed changes her helm to starboard, and after her head under the starboard helm has swung one-half point to port her engines are then put full speed astern, and then her helm is put hard-a-port, would the vessel under these maneuvers be swinging rapidly to starboard at the end of one minute, or one minute and a half, after the helm had been put hard-a-port. Why did you not want to answer that question?

A. Because it is a very complicated question.

Q. It is a question involving navigation?

A. Yes, it is rather a question of navigation. I have an opinion about it, but I do not want to give

(Testimony of L. Heynemann.)

that opinion because you would probably attack it on the point I have not sufficient experience in navigation.

Q. It would have to be based in part on experience in navigation?

A. No; I think it would have to be based on common sense, but I still think you would attack it on that point.

Q. Do you think it would be open to attack on that point? [345—226]

A. I think you would attack it.

Q. You are not afraid of me personally, are you?

A. Yes, I am.

Q. Do you mean to say—

A. I want to tell you quite frankly, Mr. Denman, I want to be very careful in my answers, because I want to be right, and I do not want to have any point that might be reasonably attacked.

Q. Oh. Then, as I understand it, you are afraid that you will be unable to explain satisfactorily, even with the assistance of your own counsel, why you had come to a certain conclusion as to this question 15; is that it?

A. No, I am not afraid of that. All I can say is that you might contend that I have not sufficient experience for my opinion.

Q. You would be afraid to meet that questioning on my part?

A. Well, I would think that if you asked that question you might prove that I had not sufficient experience in navigation.

(Testimony of L. Heynemann.)

Q. What is the effect—by the way, do you know what sort of a propeller, whether it is a right or left hand propeller on the "Beaver"?

A. I do not know.

Q. Could you answer that question anyway without knowing whether it is a right or left hand propeller?

A. Well, I can only say that most of those vessels have right hand propellers,—most of that class, but I do not know.

Q. Do you know about the "Beaver"?

A. No, I do not.

Q. You do not know whether she is an exception, or not? A. No.

Mr. DENMAN.—By the way, let me ask one more question of the other witness while he is here.

Mr. McCLANAHAN.—You refer to Mr. D. W. Dickie?

Mr. DENMAN.—Yes. [346—227]

Q. Mr. Dickie, what has the "Beaver" got, a right or left hand propeller?

A. There is no evidence to that effect, but I have hearsay evidence that it is a right-hand propeller.

Q. You have hearsay evidence, you do not know that to be a fact?

A. I could not go on the witness-stand and swear to that being a fact.

Mr. DENMAN.—That is all with you, Mr. Dickie.

Q. Now, Mr. Heynemann, presuming it is a right hand propeller, and she has put full speed astern, going at full speed ahead, what would be the tendency

(Testimony of L. Heynemann.)

with the right-hand propeller going full speed astern, with reference to turning the ship?

A. I prefer not to answer.

Q. Do I understand, Mr. Heynemann, that you are going to answer expert questions for the other side and not for me?

A. That is of the nature of the question which Mr. McClanahan asked me which I preferred not to answer him.

Q. Why?

A. Because you migh bring up the point of inexperience in navigation.

Q. But it does not require any experience in navigation to know the effect of the revolutions of a propeller on the progress of the ship through the water, as far as the tendency is concerned.

A. It does, and very decidedly.

Q. Do you mean to say that your theoretical knowledge will not tell you whether or not the reversing of a right-hand propeller will tend to throw the bow of the vessel to starboard or to port?

A. I mean to say that is a doubtful question.

Q. Why, is it not a matter of common knowledge that a right-hand propeller reversed with throw the head to starboard and the stern to port? [347—228]

A. Not that I know of.

Q. Never heard of it?

A. I think it is a deep question that I do not want to answer.

Q. Is it not universally acknowledged amongst the profession that is the effect? A. No, sir.

(Testimony of L. Heynemann.)

Q. Of reversing a right-hand propeller?

A. Not that I know of.

Q. Never heard of it?

A. No, sir. I will say that the action of the propeller is under all conditions a very complicated one and very difficult to foretell how it is going to act.

Q. Very difficult to foretell how it is going to act.

A. Yes.

Q. You are quite sure of what effect is going to happen on all these different cases here, are you not?

A. These questions where I know, I have answered them; where I do not know, I have not answered them.

Q. Well, you say it is a very complicated thing. What are the complicated elements in determining the speed at which a propeller will drive a vessel? Tell us some of them.

Mr. McCLANAHAN.—I object to that question. That is not what the witness has said. He said the complication lay in the effect on the head of the vessel under a reversing of the propeller.

Mr. DENMAN.—He has said it is always difficult to tell what the propeller is going to do under any circumstances.

Q. That is correct, is it not? A. That is correct.

Q. What are the complications that enter into those calculations?

A. Well, first of all, one of the factors of the calculation of the speed of a vessel is the displacement, the horse-power, the friction of the vessel in the water, the conditions of the surface, [348—229]

(Testimony of L. Heynemann.)

the form of the vessel's water-line, the efficiency of the propeller, the efficiency of the engines, the weight factor, the factor of resistance, and other complicated points come in, that make it difficult to determine.

Q. Well, now, would you regard it as a very remarkable thing if two experts who had never made any experiments with a vessel, who had no experience excepting a theoretical experience, based on hearsay data should make all of those elaborate calculations as to resistance and all those various things and come out exactly the same, figured to the third decimal?

A. I am not sure that I catch the drift of your question.

Q. Read the question.

(The last question repeated by the Reporter.)

A. Well, we figure to the third decimal; the questions are simply mathematical in their nature; that is to say, if the conditions are given to us,—there are certain conditions given,—and if those conditions are given the answer can be worked out to the 20th decimal.

Q. It can? A. Yes.

Q. I thought you said—

A. And it will be exactly the same.

Q. I thought you said there was a figure of resistance in there that was theoretical?

A. Oh, in those questions, we have not answered them so accurately as that.

Q. You have not? A. No.

Q. You have not figured on resistance at all?

A. We have figured on resistance, we surely have.

(Testimony of L. Heynemann.)

But wherever we have an exact agreement in the decimals, those are simply mathematical questions which can be solved, as long as the conditions [349—230] are accurately given—accurately solved.

Q. Well, then, why can't you tell us what the effect on the ship will be of reversing the propeller? All the conditions are given. Take all the conditions that you have given here.

A. It is because I do not know about the form of the "Beaver's" stern, and do not know about a number of other conditions that might affect that.

Q. What are the other conditions?

A. Well, the other conditions are relative to her headway.

Q. I am not asking you now—one minute—with reference to her headway. I am not asking you how much it would be thrown—

A. You put a broad question.

Q. But I am asking you in which direction the bow would be thrown?

A. You put a broad question which I am not able to answer.

Q. Then I will narrow it down. Presuming that she is going at 10 knots speed ahead, and has a right-hand propeller. A. Yes.

Q. And you reverse full speed astern. A. Yes.

Q. Would the tendency be to throw her bow to port or to starboard?

A. I could not tell you, I do not know.

Q. Isn't it a thing that is entirely capable of physical demonstration? A. Possibly it is.

(Testimony of L. Heynemann.)

Q. Isn't that a thing that any maker or builder of ships should know?

A. Well, possibly. I could not tell you.

Q. Is it any more exceptional in its nature than a knowledge of how much the vessel would go ahead under certain given conditions?

A. Oh, it is entirely different. It is entirely different conditions. I can say that the older I get the more careful I am in answering questions about the propeller. [350—231]

Q. And the speed that it will produce under given conditions? A. No, not that.

Q. What is it, then, you are so careful about? I do not see the point.

A. In questions of navigation.

Q. In questions of navigation.

A. Yes. In fact, I will withdraw the answer that I made before about saying, with regard to the speed, because I am just as careful with regard to the speed also.

Q. Now with regard to the stopping power of a propeller. A. Yes.

Q. You seem to have no difficulty in calculating that.

A. I won't say I had no difficulty. I will say I had difficulty in calculating that.

Q. But you have no doubt in your mind that your results are correct? A. I have no doubt.

Q. What data was that based upon, what experience was that based upon?

A. It is based on experience, or based on the

(Testimony of L. Heynemann.)

results of certain figures made by a man by the name of Hecht. Mr. Hecht is a member of the Institute of Naval Architects, from which Institute we derived nearly all of what we know about the difficult points of navigation and ship lore; he has given, after considerable research, and after having given the matter considerable attention, he has developed a formula, and I have based all my figures on that formula.

Q. Does not the determination of the stopping of a vessel depend upon the conformation of a vessel's stern?

A. It will probably enter into the proposition in a small degree.

Q. Well, then, if it only enters in a small degree into the question of stopping her, why would it not only enter in a small degree into the question of turning her head? [351—232]

A. I do not want to answer that question because I have not had particular experience in that line.

Q. Would not the investigation of the stopping of her involve that very question, how much she turned in the water? A. No, sir, it would not.

Q. Isn't some of her power expended that she would have in turning?

A. This is not a question of turning but of backing.

Q. Would not a part of the power of the vessel be expended in turning in the water as she backed? Isn't that a necessary item in making up the stopping figures of a vessel, how much of the power of the

(Testimony of L. Heynemann.)

vessel going astern would be expended in turning her and how much in stopping her?

A. Well, that question I have not answered, about how much power it would require to turn.

Q. Yes, but in determining how you are going to stop her, haven't you got to ask the question?

A. No.

Q. Isn't some of the power of the vessel in reversing used in turning the vessel in the water?

A. Not necessarily; she could back straight.

Q. Did you ever hear of a vessel backing straight, such a thing? A. Yes, I have.

Q. Did you ever hear of such a thing as a vessel backing straight with her wheel hard-a-port?

A. Very nearly, yes—yes, I have.

Q. When was that?

A. And hard-a-starboard too.

Q. When was that?

A. I know that certain experiments have been made with the rudder hard-a-port and hard-a-starboard, and it has not affected the head of the vessel but so slightly that you could hardly tell the difference.

Q. In backing her? A. In backing her. [352—233]

Q. What vessel was that done on, do you know?

A. The vessel that those certain experiments were done on, I do not remember the name of.

Q. Recently?

A. No, I don't think that they were. I cannot tell you just how recently.

(Testimony of L. Heynemann.)

Q. Since you have been employed in this case?

A. Yes.

Q. Made by Mr. McClanahan?

A. How is that?

Q. Made by Mr. McClanahan?

A. What do you mean?

Q. Were your experiments made under Mr. McClanahan's direction? A. No.

Q. I am asking you. A. No.

Q. You say that you have heard since you have been employed in this case of certain experiments.

A. Yes.

Q. Were the experiments since you were employed in this case? A. Yes.

Q. By whom?

A. No, I beg your pardon—no, they were not made—I can probably answer your question after lunch.

Q. Now let me ask you this; as I understand you, you say that you heard of a number of cases in which the—

A. (Intg.) I would like to correct that. I will say that I have seen the actual lines demonstrated on a diagram to show how little the helm affected the side motion of the vessel.

Q. In going astern, you mean?

A. In going astern, yes.

Q. And on this diagram the propeller was put full speed astern, was it?

A. Full speed astern and from a starboard helm to a port helm.

(Testimony of L. Heynemann.)

Q. And she went practically straight, is that it?

A. Well, it affected her after quite a long distance. [353—234]

Q. It affected her after quite a long distance?

A. Yes, after she had gone quite a long distance; first it did not; the helm played very little part in the changing of the vessel's head.

Q. What was the model of the vessel?

A. I could not tell you.

Q. Was it a merchant ship?

A. If I remember right, it was a vessel something like between 3 and 4 thousand tons.

Q. That is one of those ordinary merchant ships?

A. Oh, I would not be sure.

Q. Ordinary merchant ship?

A. I don't remember what kind of a ship it was.

Q. You can get that, can you, get the name of the ship? A. Yes, I can get the name of the ship.

Q. What was the purpose of those experiments, Mr. Heynemann?

A. Just to determine this question that you asked, that you think so easy to answer.

Q. I do not think they are easy to answer, don't mistake me on that.

A. It was just to determine how much the helm, the turning of the helm—how much it would affect a vessel backing.

(A recess was here taken until 2 P. M.) [354—235]

(Testimony of L. Heynemann.)

AFTERNOON SESSION.

L. HEYNEMANN, direct examination resumed.

Mr. McCLANAHAN.—Q. Mr. Heynemann, since coming into the room and since the noon recess, you have expressed to me a willingness to answer the 15th question which this morning you said that you would prefer not to answer, and I am going to ask you the question: "If the 'Beaver' is making 13.572 knots through the water and without reducing speed changes her helm to starboard, and after her head under the starboard helm has swung one-half point to port her engines are then put full speed astern, and then her helm is put hard-a-port, would the vessel under these maneuvers be swinging rapidly to starboard at the end of one minute, or one minute and a half, after her helm had been put hard-a-port?

A. Well, I did not understand that that was the question. This is the question that I was willing to answer, about the striking.

Q. I withdraw that then.

A. Not that question. There are so many elements in that question, that it is difficult to answer.

Q. It is the 10th question that you refer to, under the "Selja" set of questions. A. Yes.

Q. If the "Selja" with her engines full speed astern was making 1.33 knots astern at the moment of impact, and the angle of the two boats at that moment measured from their center lines was between 75 and 90 degrees, and the markings on the "Beaver's" port bow show that she entered the "Selja" for a distance of 18 feet, and on the star-

(Testimony of L. Heynemann.)

board bow for a distance of 10 feet, and these markings show an angle of 59 degrees, how is the difference between the angle of approach at the moment of impact and the angle shown by the markings on the "Beaver" to be accounted for? [355—236]

A. By the stern movement of the "Selja."

Q. Could the difference in these angles be accounted for in any other way, under the facts that have been stated to you? A. I do not think so.

Q. Now, I will ask you the reserved questions. How long would it take the "Selja" to come to rest making three knots from the time the engines were stopped but not reversed?

A. That is the 3d question?

Q. Yes.

A. Not less than 9 minutes and 52 seconds.

Q. How far would she travel in that time?

A. Not less than 1819 feet.

Q. What speed would the "Selja" be making under the conditions of the third question at the end of five minutes, the third question being, how long would it take the "Selja" to come to rest, making 3 knots from the time the engines were stopped but not reversed?

A. Not less than three-quarters of a knot.

Q. If the "Selja" was going at the speed of about three-quarters of a knot under stopped engines, and her engines were then reversed at full speed, how soon would she overcome her headway?

A. About 21 seconds.

Q. Under the conditions of the last question what

(Testimony of L. Heynemann.)

would be her speed astern at the end of one minute?

A. About 1.33 knots.

Q. If the "Selja's" engines at 3 o'clock are making 40 revolutions, and remain at 40 until 3:05, when they are put at 20, and remain at 20 until 3:10, when they are stopped, and remain stopped until 3:15, what would be the distance traveled by the vessel from 3 o'clock to 3:15, with a slip of 6.46 per cent?

A. About—well, put it this way, not less than 6300 feet. [350—237]

Cross-examination.

Mr. DENMAN.—Q. Taking up the last question, how far would she travel the first five minutes?

A. That was about the last question?

Q. Yes. What she would do?

A. What was the last question? Can I see that?

Mr. McCLANAHAN.—There the question is.

A. I would say that she would travel the first five minutes about 3000 feet.

Mr. DENMAN.—Q. Figure it out exactly at six knots. A. It would be 3040 feet.

Q. Now at the end of the first five minutes she drops from 40 to 20 revolutions. A. Yes.

Q. How far would she travel in the second five minutes? A. 2283 feet.

Q. That is, you average it at 4½ knots from that time? A. Yes.

Q. Your theory being that she would drop all of her six knot speed at the end of five minutes?

A. Yes.

Q. You think it would take her that long to drop it

(Testimony of L. Heynemann.)

with the thrust of the 20 revolutions helping her along?

A. That is, in five minutes she would have dissipated the speed of six knots.

Q. That is, despite the fact of the three knot thrust? A. Yes.

Q. Of course that would help her along?

A. Some, yes.

Q. How long would it take her to drop that six knot speed if she did not have the thrust of the 20 revolutions?

A. That is to say, the question then would be if she were going 6 knots.

Q. If she were going 6 knots, how long would it be, without the assistance of the 20 revolutions?

A. I could not answer that [357—238] question without going into the figures.

Q. Well, how can you answer it this way?

A. Because the engines here are going and the other way it is a drifting proposition.

Q. You know that is also drifting down from 6 knots to 3.

A. Yes, but I know that from figures that I have made, I know the speed of six knots would have been dissipated at the end of five minutes.

Q. With the thrust of the 20 revolutions?

A. Yes.

Q. You have figured that out, have you?

A. Yes.

Q. With the thrust at 20 revolutions?

A. Yes. She is going at 3:05, she drops from 6

(Testimony of L. Heynemann.)

knots to 3 knots, so that she has got a three knot impetus at that point.

Q. Well, she has got a six knots momentum.

A. Six knot momentum.

Q. And has a three knot thrust in addition to that.

A. Yes.

Q. You think, as a result of your figures and careful calculation, you say that at the end of five minutes she would have dissipated the six knots speed?

A. Yes.

Q. On that calculation how much did you figure for the drive of the 20 revolutions?

A. Well, that is contained in the formula that we used.

Q. What is the formula that you used that contains that data?

A. It is the formula of Mr. Hecht.

Q. We want the formula, to put into the record.

Mr. McCLANAHAN.—Q. Where is the formula?

A. The formula is in the records of the association of British Architects.

Q. I mean, where is the copy of it that you used?

Mr. HENGSTLER.—Q. Could you give us the formula?

A. I think I can give you the formula. [358—239]

Mr. McCLANAHAN.—Q. Hasn't Mr. Dickie it?

A. I think he has; I am not sure whether he has it or not.

A. The formula for the distance run is equal to D. I will give you the meaning of these afterwards. D divided by gr log E by V^1 divided by v equals S,

(Testimony of L. Heynemann.)

equals the distance run. S is the distance run. D represents the displacement of the vessel in pounds; g represents the acceleration of gravity; r represents the unit resistance at unit velocity. E is the basis of a Naperian logarithm, or the Natural logarithm as it is called. V^1 is one speed and V is the other speed in feet per second.

Mr. DENMAN.—Q. You say this formula won't apply to a case where the engines are stopped—

A. (Intg.) And reversed.

Q. When the engines are stopped and nothing else happens, just run around at a certain speed.

A. Yes, that formula applies to that.

Q. Will you please work out by that formula how long it would take the vessel to drop from six knots to three knots, without the thrust?

A. Yes. Well, I could not do it now; it takes quite a little while to do that.

Q. As a matter of fact, it would be less time if you take away the thrust of three knots speed?

A. No, it would be a much longer time.

Q. It would take longer to drop from six knots to three knots if you did not have the three knots thrust, or shorter? Do not let me confuse you. She is running at six knots. A. Yes.

Q. You have a 40 revolution thrust of the propeller?

A. Yes; and she is running now at 6 knots.

Q. Then you drop your 40 revolutions and go to 20 revolutions. A. After a certain time? [359—240]

Q. No; she is running at 3 o'clock—

(Testimony of L. Heynemann.)

A. I understand. Here is at 3 o'clock; at 3:05 she drops from 40 to 20 revolutions.

Q. All right. Now, in 5 minutes the 6 knots speed is dissipated and she has dropped to 3 knots?

A. Yes.

Q. Now, suppose at 3:05, instead of going at 20 revolutions you stop your engines. A. Yes.

Q. Will it take longer or shorter for the vessel to drop to a three knot speed? You have answered before that the thrust would help her along,—it would take less time. That is correct, isn't it?

A. Let us see? Would it take—

Mr. McCLANAHAN.—Q. Longer or shorter, if you kept the engines at 20 revolutions?

A. I would not be prepared to answer that question without figuring it out.

Mr. DENMAN.—Q. Do I understand you to say that you cannot tell me as an expert whether or not she would go faster between 3:05 and 3:10 if you have a 20 revolution thrust?

A. You did not put the question that way. It will go faster, yes certainly; that is, her average speed during that time would be more.

Q. Her average speed during that time would be more? A. Yes.

Q. She will cover more ground during that time?

A. Yes.

Q. So that she would lose then the influence of—

A. (Intg.) —of her six knots speed in less than five minutes.

Q. That is correct? A. That is correct.

(Testimony of L. Heynemann.)

Q. About how much would you say, as a rough estimate? A. I could not give you a rough estimate.

Q. Would it be two minutes sooner?

A. I could not tell you.

Q. Well, your formula will work that out, won't it?

A. Yes.

Q. Just convert the formula into those figures; do not work it [360—241] out A. Yes.

Q. State your equation as it will be with the figures that you would use for working that out.

A. Yes. (The witness writes down the equation.)

Q. Now, give me the equation as it was with the 20 revolutions. A. With the 20 revolutions?

Q. Yes.

A. The equation was—you mean this equation that I worked out here just now.

Q. The equation as it would be for working out, not what you did work out, but for working out the problem where you have six knots speed at 3:05 and you drop from 40 to 20 revolutions.

A. Well, I have given you these.

Q. Now, give me the equation where you drop from 40 to no revolutions?

A. Oh. This formula does not take that in, dropping to no revolutions.

Q. Why not? A. Because—

Q. If it will work one way, why not the other?

A. Because it won't; that formula is only good down to one knot speed; it does not go down to zero.

Q. What is the reason for that?

A. Because you get them into a fraction, into an

(Testimony of L. Heynemann.)

infinitely small fraction in the logarithms.

Mr. HENGSTLER.—Q. You get a logarithm equal to zero? A. Equal to zero.

Mr. DENMAN.—Q. Then, as I understand it, presuming now that we go down to say 5 revolutions, supposing she drops from 20 to 5 revolutions—see what you will get us then for the time within which she would dissipate the six knots speed?

A. This would be the logarithm of 20 to 5.

Mr. HENGSTLER.—Q. That is the distance?

A. That is the distance. [361—242]

Mr. DENMAN.—Q. You work it out for that.

A. There is the formula. I cannot now.

Mr. HENGSTLER.—Q. It would take a table of logarithms to do that? A. No man can do it now.

Q. You have not a table of logarithms here, have you? A. No.

Mr. DENMAN.—Q. How did you work it out when I asked you the question as to the six knots speed, and dropping to 20 revolutions,—you have been answering me that you had worked the thing out and you knew the 6 knots speed would be dissipated.

A. Because I worked out in my own office the fact that she would have dissipated her speed in five minutes from the 6 knots speed.

Q. She would drop from 6 knots to 3 knots in 5 minutes? A. Yes; I worked that out.

Q. On this equation? A. On this equation, yes.

Q. Have you got a table of logarithms here?

A. No.

Q. Has Mr. Dickie? A. No.

(Testimony of L. Heynemann.)

Mr. HENGSTLER.—Q. You can approximate, can't you, Mr. Heynemann, what the logarithm of 5 is,—can't you?

A. No. I would not like to approximate a logarithm.

Q. Well, just approximate it. I do not mean to give it accurately.

A. No, I would not like to approximate it.

Mr. DENMAN.—Q. Now, as an expert, let me ask you, do you believe if she will dissipate her six knots speed on 20 revolutions in 5 minutes, would she dissipate with no revolutions a 6 knots speed, dropping to 3 knots in 5 minutes at 20 revolutions—what is your opinion of the time that it would take to drop to a three knot speed at no revolutions?

A. I would not answer [362—243] that question without working it out.

Q. In other words, you have not got any common sense of the thing in your mind?

A. No, I would like to figure it out before giving an answer to it.

Q. Would you say that it was one minute less time?

A. I do not like to answer unless I have the opportunity of working things out.

Q. What is your best impression of it? Would it be about one minute?

A. No, I have no impression.

Q. Well, now, as a mechanical engineer, you know that the 20 revolutions would add very materially to the speed during the five minutes, don't you?

A. Yes.

(Testimony of L. Heynemann.)

Q. In other words, she would travel a much greater distance in the 5 minutes with the 20 revolutions than she would without? A. Sure.

Q. Now, will you determine how far she would travel in dropping from a six knot speed to a 3 knot speed under stopped engines? A. Yes.

Q. And have that for me at some future time?

A. Yes.

Q. I am not trying to trip you, I want the evidence myself. A. I understand.

Mr. McCLANAHAN.—Q. You understand the question thoroughly, do you?

A. Yes. Mr. Denman wants to know how far she would travel dropping from 6 knots down to 3 knots.

Q. On stopped engines.

A. On stopped engines, yes.

Mr. DENMAN.—Q. Mr. Heynemann, how did you work out the proposition, what formula did you use in determining that it would take some 9 minutes for the vessel to come to a dead stop in the event she was running at 3 knots and her engines were stopped? [383—244]

A. I used this same formula for distance.

Q. I thought you said you could not use that where you had no revolutions of the engines?

A. Oh, we took the several vessels and plotted their distance, so as to make up for this deficiency, and took the distance from that plotting.

Q. Did you take vessels of the same model of the "Selja"? A. About the same model.

Q. What were the vessels?

(Testimony of L. Heynemann.)

A. Well, one was the "Wisconsin."

Q. The "Wisconsin"? A. Yes.

Q. Is she of the same model as the "Selja"?

A. Being not of the same model would not make much difference because we have a figure of reduction or a figure to increase, in order to get at the same.

Q. Where did you get at the "Wisconsin's" time?

A. The "Wisconsin's" time is published.

Q. The time it would take to stop from three knots?

A. Yes.

Q. To nothing? A. Yes.

Q. What was the condition of the water under which that was done?

A. As far as I know, it was a smooth sea.

Q. A smooth sea? A. Yes.

Q. And that is true of the other two vessels, isn't it? A. Yes.

Q. So that that is simply a theoretical formula for a smooth sea? A. Yes.

Q. Now, as I understand it, the result of the hypothetical question regarding the scars on the "Beaver" was that if she was struck at right angles and showed the scars on her port side that were referred to, that she must have been crossing the bows of the "Beaver" going astern at about right angles at the time they struck?

A. I do not quite get your question. [384—244½]

Q. As I understand, the result of the substance of your answer to the hypothetical question I have just referred to is that at the time the "Beaver" struck the "Selja" the "Selja" must have been crossing the

(Testimony of L. Heynemann.)

bows of the "Beaver" at right angles, going astern?

Mr. McCLANAHAN.—I object to that question on the ground that it is not a proper statement of the witness' answer. The answer was that the "Selja" was going astern. There is no reference to the "Beaver's" course at all.

Mr. DENMAN.—Q. If she struck at right angles?

A. The way I understand the question is that the "Beaver" strikes the "Selja" at a certain angle.

Q. Presuming that angle now to be at right angles?

A. At a right angle?

Q. Presume it was at right angles. A. Yes.

Q. And the scars are as described, would you not be compelled to presume that the "Selja" was going astern across the "Beaver's" bows at about right angles? A. Yes.

Q. Now, if the testimony should show that the "Beaver" continued under full speed astern for a minute and a half after the collision, would that account for the scars being in that position?

A. That the "Selja" kept going astern?

Q. The "Selja," yes. Suppose now it should appear that the "Selja" kept on going astern for a minute and a half. A. Yes.

Q. Would that account for the scars being as extensive as they are on the "Beaver"? A. It might.

Mr. McCLANAHAN.—Now, I do not want you to think there is a mistake in the record. You said "Selja." Did you mean "Beaver"?

A. In answering that I understood you meant after the collision [365—245] that the "Selja" went

(Testimony of L. Heynemann.)

astern, after the collision, for a minute and a half.

Mr. DENMAN.—Q. At full speed.

A. What do you mean by full speed for a minute and a half?

Q. Full speed astern for a minute and a half. I mean that her engines were going full speed astern for a minute and a half.

A. It might account for the same markings on the bow of the "Beaver."

Q. As I understand it, this calculation between 3:05 and 3:10 as to the dropping of her six knots speed completely and going down, to three knots was made after careful working out of that formula in your office? A. Yes, sir.

Q. Did you compare that result with Mr. Dickie?

A. Yes.

Q. And he got the same result? A. Yes.

Q. Then you averaged the speed between 3:05 and 3:10, meaning just half between 3 and 6?

A. Halfway between 3 and 6.

Q. Meaning 4½? A. Yes.

Redirect Examination.

Mr. McCLANAHAN.—Q. You have said that if the "Selja" was going astern for a minute and a half after the collision, that might account for the markings on the "Beaver's" bow? A. Yes, sir.

Q. That is on the supposition that the "Beaver" would remain in the hole? A. Yes, sir.

Recross-examination.

Mr. DENMAN.—Q. She would have to remain in the hole, any way, to get the markings, wouldn't she?

(Testimony of L. Heynemann.)

A. Yes.

Q. Of course, she could not get out in the open air, could she? [366—246]

A. That is under the conditions of the question asked.

Q. You do not mean to say she would have to remain in the hole a whole minute and a half to get the markings that she got? A. No.

Mr. DENMAN.—That is all now.

[Testimony of James Dickie, for Libelant.]

JAMES DICKIE, called for the libelant, sworn.

Mr. McCLANAHAN.—Q. How old are you, Mr. Dickie? A. 64. Between 64 and 65.

Q. You live here in the city, do you? A. Yes.

Q. How long have you lived here? A. 41 years.

Q. What is your business, Mr. Dickie?

A. Naval Architect.

Q. How long have you been engaged in that business?

A. I have been engaged in that business and leading up to it since boyhood.

Q. Will you give a brief statement of your experience?

A. In this country I built 41 wooden vessels before joining the Union Iron Works. I joined the Union Iron Works in 1884. Since then I had charge of the shipyards, superintending of the shipyards, and was connected with building merchant vessels and many war vessels.

Q. What were your duties in connection with the Union Iron Works?

(Testimony of James Dickie.)

A. Superintendent of the shipyard.

Q. And what were your duties as superintendent?

A. Attending to building of vessels, in charge of building vessels.

Q. Where did you get your education?

A. At common school.

Q. In this country? A. In Scotland. [367—247]

Q. How long were you superintendent of the Union Works? A. 21 years.

Q. When did you cease your connection with them? A. In 1905.

Q. What have you done since then?

A. Well, doing office business in naval architecture.

Q. In this city? A. In this city.

Q. I am going to give you, Mr. Dickie, some data pertaining to the steamship "Beaver" and also some data pertaining to the steamship "Selja."

Mr. DENMAN.—We will stipulate that the same data given the other experts is now given to Mr. Dickie.

Mr. McCLANAHAN.—Q. You know the data that I intend to give to you? A. I think I do.

Q. We will then assume that that data is as you think. You know the steamship "Beaver," do you, Mr. Dickie? A. I have seen her.

Q. You know the class of the ship?

A. I know the class of ship.

Q. Can you say the same in regard to the "Selja?"

A. Yes; I have got a plan of the "Selja" that shows what kind of a ship she was.

(Testimony of James Dickie.)

Q. If the "Beaver" on her course out through the Golden Gate passes North Heads at 1:37 P. M., and Red Buoy No. 2 at 1:45 P. M., without changing the revolutions of her engines, the distance between these two points being two knots, and proceeds under the same conditions until 3:10 P. M., how far would she have travelled and at what rate of speed from 1:37 P. M.?

A. 23.25 knots; and the rate of speed would be 15 knots.

Q. If the "Beaver" travelled 23.25 nautical miles from 1:37 P. M., to 3:10 P. M., and her speed was 15 knots during that time, and [368—248] assuming that the revolutions of her engines were 84 during that time, and the pitch of her propeller 22 feet, 3 inches, what must have been the slip of her propeller?

A. 18.67 per cent.

Q. Under the same statement of facts, Mr. Dickie, as just given you, except we will assume that her engines were making 77 revolutions instead of 84 revolutions, what would the slip of her propeller be?

A. 11.28 per cent.

Q. If the "Beaver" in passing out through the Golden Gate, passes the North Heads at 1:37 P. M., and Red Buoy No. 2 at 1:45 P. M., without changing the revolutions of her engines, and under the same conditions continues her speed for a total distance of 23.25 knots measured from the North Heads, would it be possible that her engines were making only 77 revolutions during the run of 23.25 knots if her slip was more than 12 per cent? A. No, sir.

(Testimony of James Dickie.)

Q. Would it be possible that her speed was only 11 knots? A. No.

Q. If the "Beaver" in passing out through the Golden Gate, passes the North Heads at 1:37 P. M., and Red Buoy No. 2 at 1:45 P. M., without a change in the revolutions of her engines, and under the same conditions continues for a total distance of 23.25 knots measured from the North Heads, would it be possible that her engines during the run were making 77 revolutions with a slip of 25 per cent?

A. No.

Mr. DENMAN.—Perhaps I can save time. Is it your intention to ask right through the same questions and get the same answers as you did with the other two?

Mr. McCLANAHAN.—I intend to ask every one of the questions. [369—249]

Mr. DENMAN.—Is it your intention to ask exactly the same questions and do you expect to get exactly the same answers as the other witnesses testified to?

Mr. McCLANAHAN.—Yes.

Mr. DENMAN.—Then why can't we stipulate Mr. Dickie will on your direct examination state exactly what the other witnesses stated?

Mr. McCLANAHAN.—I prefer to get it in the record.

Mr. DENMAN.—It simply piles up the record that the judge will have to wade through.

Mr. McCLANAHAN.—Q. If the "Beaver's" speed is 15 knots per hour—

(Testimony of James Dickie.)

Mr. DENMAN.—We object to it on the ground it is uselessly piling up the cost.

Mr. McCLANAHAN.—Q. If the "Beaver's" speed is 15 knots per hour, with 84 revolutions, and the slip of her propeller is 18.67 per cent, what would be the speed of the vessel at the end of five minutes after the revolutions had been reduced to 76?

A. 13.572 knots per hour.

Q. If the "Beaver's" speed is 15 knots with 84 revolutions and a slip of 18.67 per cent, what would be the vessel's speed if the revolutions are reduced to 77? A. 13.751 knots per hour.

Q. If the vessel's speed at 77 revolutions is 13.751 knots, what would be her speed at the end of five minutes if the revolutions are reduced from 77 to 76?

A. 13.572.

Q. If the "Beaver's" engines were making 77 revolutions per minute would it be at all practicable to change them to 76? A. Barely possible. [370—250]

Q. To what extent would a change of one revolution from 77 to 76 affect the "Beaver's" speed in an hour with a slip of 18.67 per cent?

A. 0.179 knots per hour.

Q. If the "Beaver" was making 13.572 knots per hour, and put her engines full speed astern, how long would it be before her headway would be stopped? A. About 125 seconds.

Q. How far would the vessel travel during the 125 seconds? A. About 1295 feet.

Q. If the "Beaver" was making 13.572 knots per

(Testimony of James Dickie.)

hour, and put her engines full speed astern, what would be her speed through the water after travelling 900 feet from the point where her engines had been reversed? A. About 6.81 knots.

Q. If the "Beaver" is making 13.572 knots through the water, and without reducing speed changes her helm to starboard, and after her head under the starboard helm has swung one-half point to port her engines are then put full speed astern, and then her helm is put hard-a-port, would the vessel under these maneuvers be swinging rapidly to starboard at the end of one minute, or one minute and a half, after her helm had been put hard-a-port?

A. No.

Mr. DENMAN.—One moment, before he answers it.

Mr. McCLANAHAN.—He has answered it. Do you want the answer withdrawn?

Mr. DENMAN.—Q. Have you ever had any experience in navigation, yourself—ever navigate—

A. Not in navigating.

Mr. McCLANAHAN.—What is the purpose of interrupting me?

Mr. DENMAN.—The purpose of interrupting you is to discover whether or not this witness is sufficiently qualified to answer this particular question. [371—251]

Mr. McCLANAHAN.—You can find that out on cross-examination.

Mr. DENMAN.—Oh, no. I believe I have a right to find it out now.

(Testimony of James Dickie.)

Mr. McCLANAHAN.—He has answered the question. You can cross-examine him on it.

Mr. DENMAN.—You withdraw the answer, I believe.

Mr. McCLANAHAN.—No, I did not.

Mr. DENMAN.—You did not?

Mr. McCLANAHAN.—I did not withdraw it. I asked if you wanted it withdrawn.

Mr. DENMAN.—I ask to have it withdrawn.

Mr. McCLANAHAN.—I object to being interrupted in this way. If the question is improper—

The WITNESS. I can produce the evidence it is founded on.

Mr. DENMAN.—Q. That this is founded on? You mean that this calculation is founded on?

A. Yes.

Q. You will do that later on, will you?

A. Yes.

Mr. McCLANAHAN.—Are you through now with the interruption?

Mr. DENMAN.—I am through interrogating the witness.

Mr. McCLANAHAN.—Q. Mr. Dickie, would it make any difference if she was only making ten knots?

A. It might make a slight difference.

Q. Which way? A. I do not know.

Q. That is, your answer to the first question was that she would not be swinging rapidly to starboard.

A. Yes.

Q. And if it was ten knots, you say that might

(Testimony of James Dickie.)

make a slight difference?

A. Might make a slight difference; might be less rapidly or more rapidly, I don't know which. I have got to get my data before I can answer that intelligently.

Q. If the "Beaver" is said to have made 17.6 knots on her trial [372—252] trip, with 86 revolutions, what would have been the slip of her propeller?

A. 6.794 per cent.

Q. What would have been her speed with 77 revolutions? A. 15.76 knots.

Q. If the slip of her propeller was 6.79 per cent, making 17.6 knots with 86 revolutions, what would the slip have to be if at 77 revolutions the vessel was only making 11 knots? A. 34.97 per cent.

Q. Considering that the "Beaver" had been docked four months before November 22d, 1910, and at the time had had her bottom cleaned and painted, and assuming that on November 22, 1910, with 77 revolutions the vessel was only making 11 knots, what must have been the sea conditions on that day to account for the difference in the slip when the speed under trial trip conditions would be 15.76 knots at 77 revolutions, and on November 22d, 1910, was only 11 knots at 77 revolutions?

A. Something between a gale of wind and a hurricane.

Q. Could such a percentage of difference in the slip be possibly accounted for by a high, long, rolling swell in a calm? A. No.

Q. Assuming that under trial trip conditions with

(Testimony of James Dickie.)

86 revolutions the "Beaver" made 17.6 knots per hour, would it be possible that her speed was only 11 knots if the revolutions were 77 and the slip 25 per cent? A. No.

Q. What would be the difference in the speed of the "Beaver" between 77 and 76 revolutions on a 25 per cent slip? A. 0.1648 knots per hour.

Q. What would that difference amount to in feet at the end of 5 minutes? A. 83½ feet.

Q. What would be the "Beaver's" speed at 77 revolutions and 25 [373—253] per cent slip?

A. 12.69 knots.

Q. What would it be on the same revolutions with a 20 per cent slip? A. 13.53 knots.

Q. To what extent would a change of one revolution from 84 affect the "Beaver's" speed in one hour, with a slip of 18.67 per cent?

A. .179 knots per hour.

Q. Under trial trip conditions with an indicated horse-power of 4448, would it be possible for the "Beaver" to make 17.6 knots per hour through the water? A. No.

Q. What would be—

A. (Intg.) Hold on a minute. You did not give the displacement there.

Q. Well, you have got it, Mr. Dickie, in the data.

A. I have got it?

Q. You have got it in the data you are answering from. Your answer is "no," is it?

A. The answer is "no."

Q. What would be the possible maximum speed of

(Testimony of James Dickie.)

the "Beaver" through the water with 4448 indicated horse-power?

A. 4800 tons, 16.13 knots, sea conditions, and 16.65 knots with an absolutely clean bottom and smooth water.

Q. But what would it be if the displacement was 4400 tons? A. I did not figure that one out.

Q. Assuming that the "Beaver" with 84 revolutions travelled 22½ knots in one and one-half hours, what would have been the slip of her propeller?

A. 18.67 per cent.

Q. Mr. Dickie, how long would it take the "Selja" to stop by reversing at full speed, if she was making three knots? A. About 86 seconds.

Q. How far would the "Selja" travel before coming to rest? A. About 220 feet. [374—254]

Q. Suppose she were making 6 knots, how long would it take her to stop by reversing her engines at full speed? A. 6 knots?

Q. Yes. A. I do not have that one here.

Q. That is one of the late questions; I think you will find it later on (showing).

A. 2 minutes and 44 seconds.

Q. How far would she run, what would be the distance she would travel? A. About 782 feet.

Q. How long would it take the "Selja" to come to rest, making 3 knots, from the time her engines were stopped but not reversed?

A. About 9 minutes and 52 seconds.

Q. How far would she travel in that time?

A. About 1819 feet.

(Testimony of James Dickie.)

Q. What speed would the "Selja" be making under the conditions of the third question, at the end of five minutes?

A. About three-fourths of a knot

Q. That is, where the vessel was making 3 knots and the engines were stopped but not reversed.

A. Yes.

Q. If the "Selja" was going at a speed of about three-fourths of a knot under stopped engines, and her engines were then reversed at full speed, how soon would she overcome her headway?

A. About 21 seconds.

Q. Under the conditions of the last question, what would be her speed astern at the end of one minute?

A. About 1.33 knots per hour.

Q. The "Selja's" speed, Mr. Dickie, was logged and found to be 6 knots on 40 revolutions of her engines; what was her slip? A. 6.46 per cent.

[375—255]

Q. The "Selja's" engines at 3 o'clock are making 40 revolutions, and remain at 40 until 3:05, when they are put at 20, and remain at 20 until 3:10, when they are stopped, and remain stopped until 3:15; what would be the distance travelled by the vessel from 3 o'clock to 3:15, with a slip of 6:46 per cent?

A. About 6270 feet.

Q. If the "Selja" with her engines full speed astern was making 1.33 knots astern at the moment of impact with the "Beaver," and the angle of the two boats at that moment measured from their center lines was between 75 and 90 degrees, and the mark-

(Testimony of James Dickie.)

ings on the "Beaver's" port-bow show that she entered the "Selja" for a distance of 18 feet, and on the starboard bow for a distance of 10 feet, and these markings show an angle of 59 degrees, how is the difference between the angle of approach at the moment of impact and the angle shown by the markings on the "Beaver" to be accounted for?

A. It could be accounted for by the stern motion of the "Selja."

Q. Could it be accounted for in any other way under those facts?

A. Yes, it might be accounted for if the angle at which the "Beaver" struck the "Selja" was about 65 degrees.

Q. That would be changing my facts. I say, could it be accounted for on any other hypothesis if those facts were the same?

A. Read the entire question again.

Q. If the "Selja" with her engines full speed astern was making 1.33 knots astern at the moment of impact, and the angle of the tow-boats at that moment measured from their center lines was between 75 and 90 degrees, and the markings on the "Beaver's" port bow show that she entered the "Selja" for a distance of 10 feet, and these markings show an angle of 59 degrees, how is the difference [376—256] between the angle of approach at the moment of impact, and the angle shown by the markings on the "Beaver" to be accounted for? Your answer was it could be accounted for by the "Selja" going astern. Now, I ask you if it could be accounted for in any

(Testimony of James Dickie.)

other way under that statement of facts that has been presented to you?

A. I do not think so—yes, if she hit that vessel at that angle, at the 65 degrees, she could do it.

Q. I have not given you 65.

A. You have given me—

Q. I am asking you if the angle of the boats was between 75 and 90 degrees, and the markings on the "Beaver" show an angle of 59 degrees—you have said that might be accounted for by the stern movement of the "Selja," I say could it be accounted for in any other way under those facts, under those angles? A. Not if you stick to the angles exactly.

Q. If the "Selja" is at rest and puts her engines full speed astern, what would be the distance she would travel in one minute from the point where she was at rest, and what would be the rate of her speed at the end of one minute?

A. About 100 feet, and about 2.006 knots.

Q. Mr. Dickie, in your experience, you have made a great many observations, haven't you, respecting the navigation of vessels?

A. Quite a number—made a great many observations while traveling in vessels.

Q. For the purpose of your business?

A. For the purpose of business and for the purpose of general information.

Q. In arriving at your answers to some of these questions, how have you been assisted?

A. I wrote to the British Board of Trade for the steering and stopping of vessels and got an answer

(Testimony of James Dickie.)

[377—257] that they had turned the question over to the British Association of Science; I then wrote to the British Association of Science, and was referred to their proceedings for three or four years. I hunted up their proceedings in the library in Berkeley, and took notes from their proceedings. Then I wrote to the Bureau in Washington for their data regarding the stopping of warships and got quite a list of ships from them, the time for stopping, and from these and from them I used a formula that I found in my copies of the Naval Architect for 1888, I think it is, I would not be positive, by Mr. Hecht, and endorsed strongly by McFarland Gray, who has since died—McFarland Gray was a very able man and would not endorse anything unless it was in very good shape. We used that formula in figuring out the distance the vessel would stop, used the information given by the British Association of Science for finding the distance the vessel traveled, when traveling in certain directions.

Q. Did the formula agree with the data that you had obtained?

A. The formula agreed so well that I began to place implicit confidence in it before I got done with them.

Q. What was this data that you checked the formula up with, what did it consist of?

A. Of a set of trials of warships from the Bureau at Washington, and stopping and steering trials from the British Association of Science.

Q. How many of these trials were used by you?

(Testimony of James Dickie.)

A. In all of them I think there is about 17 or 18 vessels.

Q. Now, in answering the question as to the rapid swinging of the "Beaver" to starboard—do you remember that question? A. Yes.

Q. What assisted you in answering that question? [378—258]

A. This is plotted off.

Q. You are referring now to what?

A. I am referring to the steering when the vessel is reversed. This is a vessel somewhat near the size of the "Beaver"; she is 389 feet long, and a beam of 42 feet, and a depth of 28 feet 8. Her tonnage was 3594; she draws more water, I find, about 24 feet 8 inches of water. Now, this helm is put to port, and the vessel swings to port. She was making 10 knots at the time she crossed this line, and it took her—these are 15 seconds apart—this was the position the ship was in every 15 seconds, taken by standard compass off the bridge. That is what that vessel did in 10 knots. Whether the helm would have more effect than the propeller backing between 10 and 13 and 14 knots, I do not know, I have not any data; I cannot find any.

Mr. DENMAN.—Q. Then, Mr. Dickie, as I understand it, referring to the first experiment, the propeller was not at full speed astern?

A. Which first experiment?

Q. On this one here.

A. Yes—full speed astern she was making 10 knots

(Testimony of James Dickie.)

and they suddenly backed her, going full speed astern.

Q. What horse-power?

A. I don't know what horse-power.

Mr. McCLANAHAN.—Q. What was the effect?

Mr. DENMAN.—Q. You don't know the horse-power? A. I don't remember it.

Mr. McCLANAHAN.—Q. What was the effect on the head of the vessel; is that shown on this chart?

A. That is shown on that chart.

Q. Will you please take a pencil and mark the ship that you first referred to as "A."

A. Yes. This is the ship that the helm was put to port, and the ship goes to port. [379—259]

Q. Now, mark that one "B." A. Yes.

Q. Now, what is this next ship that you have marked "B"?

A. It is the same ship with the helm put to starboard, and she goes to starboard.

Q. And the dots on these lines extending from both "A" and "B" are what?

A. They are 15 second intervals.

Q. 15 second intervals? A. Yes.

Q. We will mark this "C." A. Yes.

Q. Now, we will turn to the next one which we will mark "C." What does that experiment show?

A. That helm was amidships and she swung to starboard, with a right-hand wheel.

Q. What speed was she making? A. 10 knots.

Q. And her engines were reversed full speed astern? A. Reversed full speed astern.

(Testimony of James Dickie.)

Q. And those circles are what?

A. 15 second intervals.

Q. We will mark those "OO." A. Yes.

Q. Now, we will turn to the next ship; we will mark that "D." The same ship, is it?

A. The same ship.

Q. What is the result there?

A. Going astern about ten knots and then he goes ahead full speed, and she moves very little; just moves a little over to port.

Q. This last experiment, then, the vessel was going full speed ahead and her engines were reversed?

A. No; she was going full speed astern.

Q. Going full speed astern and her engines were reversed? A. Yes.

Q. And those markings show the course?

A. At 15 second intervals.

Q. Mark those "XX."

A. You see she came to rest in much shorter time with the engines going ahead than with the engines reversed. [380—260]

Q. You are referring now to the ship marked "D"?

A. To the distance traveled—well, the whole ship, all of them.

Mr. McCLANAHAN.—We will offer this blue-print which the witness has been testifying to in evidence and ask to have it marked.

(The blue-print is marked Libelant's Exhibit 16.)

Q. Do you know, Mr. Dickie, the effect of rever-

(Testimony of James Dickie.)

sing at full speed astern when the vessel is going ahead on the efficiency of the rudder?

A. The rudder going astern, generally speaking, has very little directive force.

Q. You mean when the vessel is going astern—

A. Going astern.

Q. You do not mean when going ahead with reverse wheel?

A. When she is going ahead with reverse wheel, the rudder has very little effect on her.

Q. That is when the vessel is going ahead and you reverse her engines the rudder has very little directive force?

A. Yes. You give me that blue-print again. That statement that I made refers from 10 knots down to rest, and does not take any cognizance between 10 and 13 and 14 or 15 knots, because I have no data, I do not know what would happen if there was a distance out this way, I do not know what would happen. I am inclined to think that the vessel going through the water, her helm would just operate in the ordinary manner.

Cross-examination.

Mr. DENMAN.—Q. Is this the only case that you have had the plotting of?

A. The only one I had any plotting of because the others just gave one point here; some of them give one point in the middle, and some only give the direction when the ship [381—261] came to rest, but they were all in the same line.

(Testimony of James Dickie.)

Q. This was the only one—

A. (Intg.) The only one that I plotted. The spots came out so nicely that I—

Q. Where are your answers?

A. There is my answer to these questions; you can take them.

Mr. McCLANAHAN.—Q. You were saying the points came out so nicely that what?

A. Came out so nicely that I thought the captain's observations were very accurately taken.

Q. What captain?

A. The captain of the "Hankow"; I forget his name now.

Q. That is the name of this vessel (pointing)?

A. Yes, that is the name of the vessel, the "Hankow."

Mr. DENMAN.—Q. As I understand it, Mr. Dickie, you do not know what the horse-power of the "Hankow" was?

A. I know that it was less than the "Beaver's."

Q. You know it was less than the "Beaver?"

A. Yes, I know it was less.

Q. How much less?

A. I do not remember that.

Q. How do you know it was less than the "Beaver"?

A. Because it said full speed was about 10 knots with that displacement, and the "Beaver's" speed in say about 14 or 15 or 16 knots, so I suppose she subsequently must have had less power.

Q. Consequently must have had less power. It

(Testimony of James Dickie.)

would have much less power?

A. Much less power; probably not half the power.

Q. And the "Hankow" was drawing very much more water?

A. Drawing a little more water.

Q. You say a little more. Don't you call that—

A. (Intg.) Considerably more. [382—262]

Q. Considerably more? A. Yes.

Q. In other words, one was a much shallower vessel than the other?

A. I think they were pretty nearly the same depth vessel, only the "Hankow" was deeper loaded.

Q. Deeper loaded? A. Yes.

Q. You and your son and Mr. Heynemann have worked together on preparing this data, haven't you?

A. Yes, my son has done most of it.

Q. That is what I thought. And this is all the data that you have on this subject that is definitely plotted?

A. No. It is the only data that I have plotted. I have some more data on the subject. I laid it away; I could not back it up. But the data I have all is in the same direction.

Q. This is the most conspicuous example that you have?

A. Yes; that is the only one where the vessel, the position of the vessel was taken every 15 seconds.

Q. The others you have got from that research have longer periods of time?

A. Most of them had two observations, one about the middle of the distance and one at the end; some

(Testimony of James Dickie.)

had one only at the end.

Q. Now you have testified if the "Selja's" engines at 3 o'clock were making 40 revolutions, and remained at 40 until 3:05, when they are put at 20, and remained at 20 until 3:10, when they are stopped, and remain stopped until 3:15, that with a slip of 6.46 per cent she would travel in those 15 minutes 6270 feet; that is correct, isn't it?

A. That is as near correct as it can be got.

Q. You have no difficulty computing the first minutes, have you?

A. No, no difficulty the first five minutes.

Q. What do you make the first five minutes? [383—263]

A. I do not remember now.

Q. Just compute it right now, will you please?

A. I am not quick at figures. Let me see the question.

Q. I will put the question to you separately so that you can understand and there will be no confusion about it. What would she run in five minutes at 40 revolutions with a slip of 6:46 per cent?

A. Hold on; let me get it. Give me the question.

Q. You see this is the first element in your computation there.

A. Up to 3:05. I do not have the pitch of the wheel.

Mr. McCLANAHAN.—Q. You have got it in the data which was given you.

A. Yes, I know. I do not care to figure it out in the courtroom.

(Testimony of James Dickie.)

Q. 6 knots is the speed, Mr. Dickie, if that is what you are after, 40 revolutions. A. 6 knots.

Mr. DENMAN.—Q. The "Selja's" distance was logged and found to be 6 knots on 40 revolutions.

A. Put your questions in writing and I will figure them out, slowly.

Q. Then I will put a very simple question to you. You answer all these questions because—

A. Because they were figured out slowly.

Q. You mean figured outside the courtroom?

A. Outside the courtroom.

Q. Then you simply brought in the answers?

A. In the answers that I had figured out.

Q. Mostly by your son?

A. No. The slip and all that sort of thing I figured them out all nearly myself.

Q. Some of them you did not figure?

A. Some of them I did not figure, some of them later ones.

Q. Some you took from— [384—264]

A. (Intg.) Some I took for granted because I know they were about right by inspection.

Q. Then really the result of your composite work, as most engineering problems, the working of most engineering problems is the result of that composite work? A. Yes.

Q. I will put this simple question to you; this ought not to confuse you. How many feet would she make in five minutes running at six knots an hour?

A. That is the 12th?

Q. It is half a knot, isn't it?

(Testimony of James Dickie.)

A. Half a knot, yes.

Q. So that the first figure in your 15-minute calculation, the first five minutes you calculate that she went 3040 feet, don't you?

A. Something like that.

Q. Now, in the second five minutes she had a momentum of six knots at the beginning of the period?

A. No.

Q. She stopped her engines at the end of five minutes; she had a 6-knot momentum?

A. Wait a minute. Then remains until 3:05.

Q. She would have a 6-knot momentum, and a thrust of 20 revolutions?

A. Then the 20 revolutions is put in.

Q. So she would have a thrust of 20 revolutions during the entire 5-minute period, but would start with a 6-knot momentum?

A. She would not have a thrust of 20 revolutions; the thrust would be the opposite way.

Q. Then I am using the wrong term. Her propeller would be driving her at the rate of 20 revolutions.

A. It would not be driving her, it would be retarding her.

Q. Then your theory is—

Mr. PAGE.—You made a mistake in the original question.

Mr. DENMAN.—Q. Suppose a vessel is going at 6 knots speed. [385—385] A. Yes.

Q. And you stop your engines entirely.

A. Yes.

Q. She would make a certain rate of speed during

(Testimony of James Dickie.)

the next 5 minutes?

A. Yes; gradually reducing.

Q. Gradually reducing? A. Yes.

Q. Now, suppose instead of stopping the engines entirely you run your propeller at 20 revolutions, would she stop faster or slower?

A. She would stop a little slower.

Q. And your theory is that the 20 revolutions would retard rather than help the ship during that period?

A. Yes, during the first portion of that period, yes.

Q. Well, until she had lost the entire 6-knot momentum; is that it?

A. Until she had lost the 6-knot momentum.

Q. Well, we have experts on both sides. Have you tried that, as a matter of fact, on a ship, Captain, to see whether— A. (Intg.) No.

Q. This is merely your expert opinion at this moment?

A. Well, that is what you call a fact, because the propeller is going slower than the vessel; consequently it retards the vessel.

Q. If she was not going at all then it would be retarded more? A. A little more.

Q. Well, according to that, then your statement is not correct? A. My statement is correct.

Q. You just stated that she would lose her 6-knot speed faster if the propeller were going at 20 revolutions than if she was not.

A. I did not say that.

Q. All right; you did not mean to say that?

(Testimony of James Dickie.)

A. I did not say that. [386—266]

Q. Well, you did not mean to say that. If you did, it was a mistake, a misunderstanding.

A. I did not say that.

Mr. McCLANAHAN.—Q. May I interrupt you, Mr. Dickie? Let me put two situations to you. This is the first one; a vessel is going at six knots and her engines are then stopped and remain stopped for five minutes. That is the first situation. Have you got that clearly in your head? A. Yes.

Q. Now, the other one is, she is going at six knots and her engines are put at 20 revolutions or three knots, and she runs for five minutes.

A. She would run a little farther with the engines going 20 revolutions than when they have stopped altogether.

Q. Run a little farther? A. Yes.

Q. Would she reach a three knot speed sooner with the engines going three knots than she would if they were stopped? A. No.

Q. Is that it? Would it be the same?

A. No. It would take a little longer.

Q. With the engines going, it would take longer to reach a three-knot speed?

A. Take longer to slow down with the engine slowed down.

Mr. DENMAN.—Q. About how much longer?

A. I do not know. It is a figurable thing, but a very intricate thing to figure.

Q. It would be quite a little—

A. Yes, it would be a little.

(Testimony of James Dickie.)

Q. At the 20 revolutions.

A. At the beginning, it would make very little difference, but it would make a good deal of difference at the end.

Q. As it began losing its six knots speed, it would help very much? [387—267]

A. It would help considerably.

Q. That is what I want to get. I thought you misunderstood me. Now, as I understand it, in figuring this second period, I notice you get the same result as Mr. Heynemann, I believe, and your son.

A. About the same result, because we figured it up in a bunch, all together.

Q. Figured it all together. Then in that second period, as I understand it, from 3:05 to 3:10, you presume that she was going at an average of 4½ knots. That is correct, isn't it?

A. I don't remember if that is correct, or not?

Q. Well, you figured it all together, and the conclusion you came to was, was it not, that all the six knots speed would be spent between 3:05 and 3:10, and she would drop down to three knots? A. Yes.

Q. And then, don't you recollect now, that you calculated that average speed at 4½ knots?

A. I don't remember that, because these are extremely intricate things to figure, extremely intricate.

Q. Well, it would not be intricate if you simply took an average between 3 and 6?

A. No, that would be easy.

Q. Isn't that what you did?

(Testimony of James Dickie.)

A. I don't remember if that was what we did, or not.

Q. You don't know whether it is intricate or not?

A. I know it is intricate, because I worked a long time at it.

Q. Well, if it was intricate and you worked a long time at it, you could not have taken the average between 6 and 3?

A. We did not take an average; we worked at it.

Q. Now, Mr. Heynemann tells me that you took an average between 6 [388—268] and 3, but assumed as a result of calculation that she would, within five minutes, just spend the difference between 6 and 3 knots.

Mr. McCLANAHAN.—No. I beg to correct the counsel. Mr Heynemann did not say she would just spend the difference. What he did say was that at the end of 5 minutes she would have reached a three knot speed, and he declined to say when she reached it.

Mr. DENMAN.—But he did say that, as a result of that calculation, they would travel in the five minutes between 3:05 and 3:10 one-half the difference between 3 and 6, or 4½ knots.

Q. You could not have obtained the result in any other way than by assuming that in the five minutes she would just drop from 6 knots to three knots?

A. If you want that, just put it in writing, and give me time to figure it out, and I will give it to you.

Q. Now, I do not want to bother you here, but will you or your son prepare for me a complete list of the

(Testimony of James Dickie.)

formuli and authorities used in getting at these results? A. Yes, I can do that.

Mr. McCLANAHAN.—Q. Haven't you given that list already, Mr. Dickie? A. I don't know.

Q. Haven't you given them it? A. What list?

Q. This list that he is asking for, the formuli?

A. I don't know whether my son has given it or not.

Q. Have you given it?

Mr. DENMAN.—No, it is not in the testimony.

A. No, I have not given it.

Mr. McCLANAHAN.—Q. Of what does it consist?

A. Well, it is quite a lengthy formula. [389—269]

Q. What formula are you referring to?

A. I am referring to Hecht's formula, published by the Institution of Naval Architects.

Mr. McCLANAHAN.—Is that what you want, Mr. Denman?

Mr. DENMAN.—Q. There must be quite a number of formuli used?

A. There is two or three pages of them. They are something that a man has to sit down in quiet and figure on.

Q. I understand that. My questions to you regarding the statement there were to get at the general results. A. Yes.

Q. Mr. Dickie, if the "Beaver" struck the "Selja" at right angles, and the scars on the "Beaver" were in the condition that has been described to you, would that show that the "Selja" was crossing the

(Testimony of James Dickie.)

"Beaver's" bows at right angles astern at the moment of the collision?

A. It would show that she was going astern beyond question.

Q. It would show that the "Selja" was crossing the "Beaver's" bows going astern at that time?

A. She could not be crossing the bows if she was going astern.

Q. If she were at right angles to her, she would be, would she not?

A. Oh, yes; if she was crossing the bows going stern first, yes.

Q. And at right angles to her, if the blow was at right angles?

A. If the blow was at right angles; there is two ways in which you can account for blows; you can account for hitting at the angle which the blow shows or you can account for its striking at right angles by the "Selja's" going astern.

Q. That, of course, would indicate that she was crossing the bows of the "Beaver" and going astern at the moment of impact?

A. It would be that she was nearly across. [390—270]

Q. Nearly across?

A. Because, hitting the forward end of the "Selja"; that is quite a distance from the stern.

Q. Presuming, according to your statement, she had—

A. (Intg.) She had gone astern about 100 feet.

Q. According to your theory.

(Testimony of James Dickie.)

A. According to the calculation, from the testimony, we are correct; so that she would have been nearly in the middle when she started to back, the "Selja." The "Selja" must have been nearly in the middle, that is, if the "Selja" had laid still, she would have been hit about amidships, a little abaft of amidships.

Q. If struck at right angles it would indicate that the "Selja" was going astern? A. Yes.

Q. And crossing the bows of the "Beaver" at about right angles?

A. At about right angles. Generally you do not talk about a ship crossing the bow by going astern.

Q. Well, but it is a fact?

A. It is a fact that that is crossing the bow.

Mr. McCLANAHAN.—I want to ask Mr. D. W. Dickie a question.

Q. I refer you to Libelant's Exhibit 14, which is the model of the "Beaver," and pointing to a square about amidships, ask you what that is.

A. That square is intended to locate the chief engineer's room.

Q. On the "Beaver"?

A. On the "Beaver," yes.

Q. That is drawn to scale, is it?

A. That is drawn to scale, yes.

Mr. DENMAN.—Q. Have you been on her?

A. Only to see her.

Q. Recently?

A. No. When she first came out.

Q. How long ago is that?

(Testimony of James Dickie.)

A. Some little time ago; I don't remember.

Q. A couple of years?

A. No, it was not that long. It was—this [391—271] is 1911—yes, about that long. That would be close enough.

Mr. McCLANAHAN.—That is all with Mr. D. W. Dickie.

Mr. McCLANAHAN.—Now, what do you want from these experts?

Mr. DENMAN.—I want what I have asked for.

Mr. McCLANAHAN.—You want from Mr. Dickie, Sr., the formuli used in computing these speeds and distances.

Mr. JAMES DICKIE.—Do you want the full formuli?

Mr. DENMAN.—It is all in the book?

Mr. DICKIE.—It is all in the book.

Mr. DENMAN.—Q. Where is the derivation contained?

Mr. HEYNEMANN.—The derivation of the formula is contained in the works of the classification of British naval architecture, Association of Naval Architects, I think it is, in 1888.

Mr. JAMES DICKIE.—Institution of Naval Architecture, in 1888.

Mr. DENMAN.—The book in which it is contained is in the University library. Is that correct?

Mr. JAMES DICKIE.—I do not know whether it is or not. I have my own copy that I used.

Mr. DENMAN.—Q. Could I examine that copy?

Mr. JAMES DICKIE.—Yes, you can have the

copy. Do you want the book?

Mr. DENMAN.—Yes.

Mr. McCLANAHAN.—That is what you want of Mr. Dickie, Sr.

Mr. DENMAN.—Yes.

Mr. McCLANAHAN.—Now, what do you want of Mr. Heynemann?

Mr. DENMAN.—I want him to work out the formuli of distance and [392—272] speed between 3:05 and 3:10; also the distance she would cover if she stopped her engines at 3 o'clock, or stopped her engines when making 6 knots speed before she dropped to 3 knots.

Mr. McCLANAHAN.—Q. Do you understand that clearly, Mr. Heynemann?

Mr. HEYNEMANN.—You want the distance she would travel at six knots and three knots, independent of the time.

Mr. DENMAN.—And also the time.

Mr. HEYNEMANN.—That is, if she drops from 6 knots to 3 knots at a stated period, the distance she would then travel and the time she would have dissipated the 6 knots speed; is that it?

Mr. McCLANAHAN.—You understand it, Mr. Heynemann?

Mr. HEYNEMANN.—Yes.

Mr. McCLANAHAN.—What do you want from Mr. Dickie, Jr.?

Mr. DENMAN.—All those things I asked for this morning.

Mr. McCLANAHAN.—What is it?

(Testimony of James Dickie.)

Mr. D. W. DICKIE.—What he asked for this morning was the papers with all the multiplication and division and subtractions and additions on that, but I did not do it that way. I did it with a slide ruler, and did not put but the results down on the paper.

Mr. McCLANAHAN.—Have you got those papers?

Mr. D. W. DICKIE.—I have some of them here; the most of them I threw into the waste basket.

Mr. McCLANAHAN.—Have you got here all that you have left?

Mr. D. W. DICKIE.—About all; there may be some lying on my desk down in the office.

Mr. DENMAN.—Are they so grouped that they would be of any value to one checking it up, in order to check it up, or would it [393—273] be necessary to bring an expert to cross-examine you?

Mr. D. W. DICKIE.—That is about the only way, because no man who uses the slide rule would bother to put down anything but the results he gets.

JAMES DICKIE, cross-examination resumed.

Mr. DENMAN.—Q. By the way, let me ask you: Do naval architects, as experts, come to the same disagreements that lawyers and engineers and other experts do? A. Just exactly the same.

Q. That is to say, practically any theory that is advanced will be refuted by another equally well?

A. No, that is not true. On some things they will agree absolutely; for instance, if it is about the pitch

(Testimony of James Dickie.)

of the propeller.

Q. That is, all three of you agreed on that?

A. And about 3,000 would agree just the same.

Q. Do you mean to say that the 3,000 would agree with you on the stopping results?

A. No. They would not all agree, because if there was one more barnacle she would stop a little quicker; you see it would depend on so many barnacles.

Q. Of course, the sea conditions—

A. (Intg.) You have got to assume certain conditions.

Q. The sea conditions, of course, would vary your results?

A. For instance, I have been asked a question many times, what difference it would make in the speed of a vessel if she was not out of the water for three or five years, and I have said, is she going north or south; if she is going to Panama, it would [394—274] make a difference of a knot, whereas if she were going north it would not make a difference of a quarter of a knot; something like that.

Q. It is a question of the difference in the marine growth on the vessel?

A. Yes, in the marine growth.

Q. Now, there is another variable; that is the weather during the different times.

A. The weather varies a good deal; the weather has not as much effect on the "Beaver" as on the "Selja."

Q. Well, how about the conditions of the sea?

(Testimony of James Dickie.)

A. The sea would not have had much effect on the "Beaver."

Q. It would have a very considerable effect, would it not? A. It would have a little effect.

Q. Do you mean to say a vessel going into the sea would not be more affected than a vessel going before it?

A. With these fast vessels it makes but very little difference. For instance, I crossed the Atlantic, and we had a gale of wind, and we only lost a knot and a half that day.

Q. That was how fast a vessel?

A. A 20 knotter.

Q. 20 knotter?

A. The "Majestic." With the "Lusitania," they have got to slow down only when things begin to break.

Q. Do you mean to say that a vessel running before a heavy sea will run just as fast as a vessel running against a heavy sea?

A. They generally go better against the sea.

Q. Go faster against the sea?

A. Go faster against the wind.

Q. I am not talking about the wind, but the sea.

A. When there is wind there is sea.

Q. I know, but there may be a sea and no wind.

A. No such sea as a following sea without wind.

[395—275]

Q. You mean without wind originally causing it.

A. No; but the sea don't travel.

Q. I see. A. It just goes up and down.

(Testimony of James Dickie.)

Q. And then I am to understand—

A. (Intg.) That is, unless you come nearer the land; it only begins to travel when the water gets shallow.

Q. Presuming it is 35 or 40 fathoms?

A. Then it does not travel.

Q. So that a vessel that had a following sea would not be moved at all ahead by the sea, presuming now a calm day, but a heavy swell, a vessel in that would not be driven at all by the sea?

A. No. She would not make as good time, because she would have an up and down motion that would take up part of the power.

Q. But the sea would not drive her ahead at all?

A. No.

Q. Simply move up and down on the water?

A. Simply a moving up and down motion would account for a little diminution of the speed, but with those very fast vessels it makes very little difference. For instance, on the last trip I made on the "Siberia," her stern was going up—the stern was going up 23 feet 4 inches, and that made very little difference in the speed; very slight. That was considerable, the biggest I measured was 61 feet, that was on the "Majestic."

Q. Going into the sea or with it?

A. Going into it.

Q. Of course the model of the vessel would have something to do with that, wouldn't it?

A. Yes. The fast vessels are not slowed down by

(Testimony of James Dickie.)

the sea. For instance, a vessel like the "Selja," with very little sea, would almost stop altogether, and the "Beaver" would go right along. [396—276]

Q. Of course, you never had any actual experience on the "Beaver?"

A. No. I am talking of the "Beaver" type.

Q. You would hardly want to set your knowledge against the log of the vessel and the statements of the captain that managed her for years, would you?

A. Sir?

Q. You would hardly want to set your theory against the log of the vessel and the experience of the captain over a period of years, would you?

A. I would,—I have seen so many logs and I have seen so many statements. A captain told me once he would never tackle me with perjury of this kind, I said, what was the trouble. He said, when I went into the office I was prepared to swear that the ship's decks were full of water all the way down the coast, and when I came out I would have sworn she hadn't a drop of water on deck and the sun was burning the pitch out of the seams.

Q. That is the effect of the expert mind applied to the real facts? A. Yes.

Q. I thought so.

A. It is a distortion of the facts. Unless a man is accustomed to take observation, he don't get the facts correct.

Q. But suppose a man is accustomed to examine a log two or three times a day, do you mean to say that after a long period of 20 years he had not

(Testimony of James Dickie.)

learned how to write the log?

A. No trouble to write the log.

Q. That is not an occupation that requires any peculiar expertness, is it? A. No.

Q. The fact is common seamen learn that very rapidly?

A. Anybody can write the log, but when they begin to talk about revolutions and pitch and one thing and another, they generally get balled up.

(An adjournment was here taken until Friday, June 16th, 1911, at 10 A. M.) [397—277]

Friday, June 16th, 1911.

[Testimony of L. Heynemann, for Libelant (Recalled).]

L. HEYNEMANN, cross-examination resumed.

Mr. DENMAN.—Q. Mr. Heynemann, do you recall the question that I asked you to figure out?

A. The distance travelled from 6 knots to 3 knots without the assistance of the engines.

Q. Without the assistance of the engines?

A. Yes. That was your question. You want now the distance in which the 6 knots was dissipated, that is 3 knots out of the 6 knots was dissipated.

Q. Yes. A. That was your question.

Q. The distance she would run and the time it would take her.

A. It was not a question of time, just a question of distance she would travel, and that distance I have worked out; that distance is about 2080 feet.

Q. About 2080 feet? A. Yes.

(Testimony of L. Heynemann.)

Q. That she would travel in dropping from 6 knots to 3 knots?

A. Yes. In that distance the momentum of 6 knots would be dissipated down to a 3 knot momentum.

Q. I think that is all.

A. I would like to mention about that formula. I would like to have that formula changed which I gave yesterday from memory; I would like to give you the formula that we worked on. That is, the distance is equal to 6.6 times L times log V^1/V. I would like to state that with that formula we determined the distance the vessel would run if she stops her engines at full speed. The other points were determined by points from observations of running distances of other vessels.

Mr. McCLANAHAN.—Q. Mr. Heynemann, in giving your answer 2080 feet, about, what formula did you use?

A. I used a formula [398—278] there that is called the Visviva formula.

Q. Not the Hecht formula? A. No.

Q. Did you use the Hecht formula in estimating any of the low speeds?

A. That is not in drifting, but we did in the backing.

Mr. HENGSTLER.—Q. What is the capital L in that formula?

A. Capital L in the formula quoted is the distance that a vessel will run starting from full speed when backing full speed.

(Testimony of L. Heynemann.)

Q. And V^1 and V are the same quantities that you gave.

A. The same quantities.

Q. That you explained yesterday. A. Yes.

Mr. DENMAN.—Q. Now, how long would it take in time to drop from a 6-knot to 3-knot speed, I mean without the assistance of the 20 revolutions, with the engines stopped?

A. The time, if I remember, was about 240 seconds.

Q. What?

A. About 240 seconds, if I remember correctly.

Q. 240 seconds; that is with the 20 revolutions?

A. That is all it takes to dissipate the 6-knot energy down to 3, or, to put it in other words, to rob the vessel with 6-knots energy of 3-knots energy; that is what you are trying to get at.

Q. Yes. A. Yes.

Q. You made that how many?

A. I think it was about 240 seconds.

Q. That was 4 minutes—just about 4 minutes?

A. Just about 4 minutes, yes.

Q. And that is worked out under that formula that you have given there?

A. That is worked out with the Visviva formula.

Q. Does that formula presuppose that the screw is quiet?

A. That formula only takes into account the momentum; that is simply a theoretical question. It only takes account of the [399—279] momentum

(Testimony of L. Heynemann.)

of the ship, and the question is asked purely in this way, when will a certain amount of momentum be destroyed with a vessel having a certain amount of momentum.

Q. Of course, any added momentum—

A. (Intg.) Any added resistance would decrease that speed, as, suppose you were to hang out a sea anchor.

Q. If, on the other hand, you added power, it would increase it. A. It increases it.

Q. Now, this is the calculation that you refer to as having been made to get the distance between 3:05 and 3:10. A. Yes.

Q. And it was under this formula that you worked? A. Yes, sir.

Q. The 4 minutes you estimated she would go how many feet?

A. About 2080, I think it was.

Q. 2080 feet.

A. It may be a few seconds more than 4 minutes, but that is my recollection about it, 240 seconds.

Q. And then at the 3-knot speed she would go about 300 feet a minute, would she not?

A. A little over; she would go about 304 feet a minute.

Q. Do you recollect the distance that you said the vessel travelled between 3:05 and 3:10 yesterday?

A. I think it was over 2200 feet.

Q. As I understand your testimony now, you would say that in 4 minutes, without any assistance from the propeller whatsoever, she would travel

(Testimony of L. Heynemann.)

2080 feet, and the next minute, at a 3-knot speed, she would travel 304 feet, so that within the 5 minates between 3:05 and 3:10, according to your present calculation, which you state is made as the result of using the same formula as used the [400—280] first time, the vessel would have travelled 2384 feet; is that correct?

A. No. It was something like 2200 and odd.

Q. I know it was about 2200 and odd yesterday, but to-day you say in 4 minutes, you say you get it from using the same formula, that in 4 minutes you would travel 2080 feet, and in the next minute under a 3-knot speed of 20 revolutions she would travel 304 feet.

A. You do not state the case correctly; she travels simultaneously; there are two simultaneous actions there, the one is going at a 3-knot rate, and the other effect is to destroy the 6-knot momentum.

Q. Now pardon me. A. You can't segregate—

Q. I am not asking you to segregate it. You just stated that in 4 minutes she would run—

A. (Intg.) About 4 minutes.

Q. About 4 minutes, she would run about 2080 feet. That is what you stated, isn't it?

A. Under what conditions?

Q. If she has a 6-knot speed. A. Yes.

Q. And you stopped her engines. A. Yes.

Q. Now, she would run 2080 feet in 4 minutes.

A. In about 4 minutes.

Q. Now, if she is run another minute at 3-knot speed. A. Yes.

(Testimony of L. Heynemann.)

Q. With the engines going, she would run 304 feet further, would she not? Is that correct?

A. Just wait a minute.

Q. She has exhausted all her 6.

A. Yes, but you are putting the case now entirely different.

Q. Follow me now, Mr. Heynemann; if she run another minute at 3 knots speed she would run 304 feet? A. I will state—

Q. (Intg.) Would she run 304 feet?

A. I will state a 3-knot rate equals about 304 feet. [401—281]

Q. Now, if at the end of 4 minutes the 6-knot rate is entirely dissipated— A. (Intg.) Yes.

Q. And she has 20 revolutions on—

A. (Intg.) Yes.

Q. She will run at 3 knots, won't she?

A. She will run at 3 knots.

Q. And in that minute she will run 304 feet.

A. If the time is exactly as stated, 4 minutes,—I do not remember—but if it is, I will say that her rate of speed at 3 knots is 304 feet a minute.

Q. Now, you say that in dropping the 6-knot speed she would run 4 minutes and cover 2080 feet.

A. Yes.

Q. Then you would get in 5 minutes under those circumstances 2384 feet? Isn't that correct?

A. Well, not under those circumstances, no, you would not.

Q. Why not?

A. Because you are putting now two entirely dif-

(Testimony of L. Heynemann.)

ferent cases. The one case is a case where a vessel makes 6 knots and drops down to 3, and then makes a certain speed or covers a certain distance; and in the other case you take out during the time the vessel has run her 3-knot momentum—you take out the action of the propeller during that period.

Q. But you said yesterday the action of the propeller would be to increase the distance she would run?

A. Yes, but not in the way you seem to have it fixed in your mind. To a certain extent from the very moment that the propeller drops from 6 knots down to 3 knots that propeller is a drag.

Q. It would not be any more of a drag than if it were standing still, would it? A. Oh, yes.

Q. You said yesterday that it would assist the rate of speed?

A. think it would assist the rate of [402—282] speed. But if you take out the simultaneous actions of the loss of the momentum and the operation of the three-knots speed, why then you present a different proposition to me.

Q. That of course is a proposition that you had, when you calculated the distance she would run between 3:05 and 3.10.

A. The proposition was a simultaneous proposition.

Q. And you made that 2250 feet.

A. I forgot just what I did make it.

Q. Let me ask you this: Do you mean to say that

(Testimony of L. Heynemann.)

if she stopped her engines entirely at 3:05 and ran to 3:09, and then hooked on at 20 revolutions and ran to 3:10, that she would cover more ground than she would if the 20 revolutions ran during the entire 5 minutes? A. No.

Q. She would cover less ground?

A. I think so.

Q. All right. But you do make it that if stopped her engines entirely—

A. (Intg.) I will tell you why I say I think she would cover more ground, because if the vessel has got down to the 3-knot rate, and then its propeller is operating at a 3-knot rate, why then the propeller has ceased to be a drag. You can easily, if you will take this point and revolve it in your mind, Mr. Denman, imagine what took place; when a vessel, say backs; supposing a vessel backs; she is running full speed, and now the vessel starts in to back. You can easily see that there is a very complicated situation arises there and is put up. Now, to a certain extent the action is a sort of a backing action, because the vessel is travelling at one rate and the propeller is travelling at another, and to a certain extent there is an interference there. [403—283]

Q. But less of an interference when the propeller is going ahead than if stopped? A. Yes.

Q. You could quite well conceive then that the rule would be laid down by maritime experts that the engines should be stopped as soon as a whistle was heard ahead for the checking effect of the still pro-

(Testimony of L. Heynemann.)

peller—you could imagine that rule being passed, couldn't you?

A. I should think that would depend upon the conditions.

Q. I mean to say, if the desire was to stop the vessel going at a certain rate of speed and bring it down to a lower rate of speed, you could imagine the rule being laid down that the engines should stop so that the checking effect of the propeller would stop the vessel—that would be a conceivable thing?

Mr. McCLANAHAN.—I object to that as calling for the conclusion of the witness on the construction of the minds of the legislature in framing a law.

Mr. DENMAN.—Just strike that out.

Q. The propeller at rest would stop the vessel much more than the propeller going ahead, would it not?

A. I would not be so very ready to answer that question either; that would depend on other conditions; that would depend largely on the engine.

Q. On the engine?

A. Yes, on the engine. Now, suppose that you have an engine with very little friction and you close your throttle and open your air-cocks so that the engine can work very freely; then your propeller will turn your engine, and in that way create, under certain conditions, really less resistence than if the engines were put from one rate of speed down to another rate of speed, because that churns the water and causes a grating motion at the [404—

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(Testimony of L. Heynemann.)

284] stern of the vessel; and just what the effect of that is is difficult to foretell. It is a knotty question.

Q. Well, then, you cannot say that the propeller at rest would check the vessel more than the propeller going at 20 revolutions?

A. I would say we know.

Q. Under ordinary conditions?

A. I would say under ordinary conditions I would imagine it would.

Q. You said yesterday that it would be a very considerable difference in the two.

A. Well, I think it would.

Q. Well, that sounds like common sense, doesn't it?

A. Yes, it sounds like common sense.

Q. There is nothing in your scientific knowledge that you know that would contradict that, is there?

A. No.

Mr. DENMAN.—That will be all now.

Mr. McCLANAHAN.—That is the libelant's case.

(An adjournment was here taken until to-morrow morning, Saturday, June 17th, 1911, at 11 A. M.) [405—285]

Saturday, June 17th, 1911.

[Testimony of Robert E. Judson, for Respondent.]

ROBERT E. JUDSON, called for the respondent, sworn.

Mr. DENMAN.—Q. Mr. Judson, what is your occupation? A. Mariner.

(Testimony of Robert E. Judson.)

Q. How long have you been a mariner?

A. 15 years, sir.

Q. How old are you now? A. 32.

Q. Were you on the steamer "Beaver" at the time of her collision off the Golden Gate?

A. Yes.

Q. What were you doing on her?

A. Third officer.

Q. You were third officer? A. Yes.

Q. Where were you at the time the collision occurred? A. I was in my bunk.

Q. Was it your watch below? A. Yes.

Q. Tell me, did you go on deck after the collision?

A. Yes.

Q. Where did you go?

A. I went to my boat immediately.

Q. You went to your boat. A. Yes.

Q. What did you do there?

A. Started to clear the boat away.

Q. Started to clear away the boat. A. Yes.

Q. Did you clear it away?

A. Well, I got it partly cleared away and Captain Kidston told me not to lower it, not to let it go, did not need it.

Q. What did you do then?

A. Why then I went to the port where they were taking the crew of the "Selja" aboard and assisted them in taking the crew aboard the ship.

Q. What did you do then.

A. After they were all aboard I went up on the bridge. I went forward first and had a look at the

(Testimony of Robert E. Judson.)

bow with the first officer, and then I went up on the bridge and relieved the second officer. [406—287]

Q. Relieved the second officer, at whose request, if anyone's?

A. It was the first officer who stands the watch from 4 to 8, and just about 4 o'clock I went to take his watch so that he could look after the ship, you know.

Q. Had the vessel started back at that time, to San Fransicco?

A. Yes; she was under slow bell.

Q. She was just under slow bell? A. Yes.

Q. Just beginning to return?

A. Well, just about. I would say she had been running probably about five minutes, I should say.

Q. When you went up forward on the bow to look at the bow did you then at that time see Point Reyes?

A. I seen Point Reyes before that.

Q. About what direction was Point Reyes from you?

A. Well, I would not say exactly, in a northerly direction.

Q. Northerly direction? A. Yes.

Q. Could you see the northerly point of Point Reyes, the north end?

A. I could see the lighthouse and all.

Q. Could you see the south end? A. Yes.

Q. What direction were you from the south end of Point Reyes?

A. Well, we was to the southward of it.

(Testimony of Robert E. Judson.)

Q. Southward of it? A. Yes.

Q. And about how far off would you say you were from the lighthouse?

A. From Point Reyes lighthouse, well, between 5 and 6 miles.

Q. Between 5 and 6 miles? A. Yes.

Q. How far from the south end?

A. Probably about 4½ miles.

Q. Could you measure it accurately as 4½ miles?

A. No, I would not say I measured it accurately; just looked at the points when I came on the bridge. I did not take any bearings. [407—288]

Q. Now this was before the vessel had started back?

A. Well, just about the time she started back.

Q. Just about the time she started back?

A. Yes.

Q. Then you went up on the bridge, did you?

A. Yes.

Q. How long did you stay on the bridge?

A. Well, I stayed there until we got alongside of the dock.

Q. Until you got alongside of the dock?

A. Yes.

Q. Did Captain Lie come up on the bridge while you were there?

A. The captain of the Norwegian vessel, yes.

Q. Did you hear any conversation between Captain Lie and Captain Kidston about the occurrences on Captain Lie's vessel prior to the collision?

(Testimony of Robert E. Judson.)

A. In that he said she was at a standstill.

Q. How long? A. Over 10 minutes.

Q. What else occurred in that conversation. Give us the whole conversation, just what happened?

A. Well, the captain came on the bridge. Captain Kidston said, "I see you have dry clothes on." He said, "Yes, I have dry clothes on," and the captain told him he was very sorry he sunk his ship. And that is the time that Captain Lie said that he had been at a standstill there for 10 minutes taking soundings.

Q. Did he say what soundings he had taken?

A. 35 fathoms.

Q. 35 fathoms. A. Yes.

Q. Was there any thing further said in that conversation concerning the whistle?

Mr. McCLANAHAN.—I object to this method of examination.

Mr. DENMAN.—Q. Was there anything further said in the conversation—

Mr. McCLANAHAN.—Let the witness state what the conversation was, and if you exhaust his memory— [408—289]

A. That is about all I remember of the conversation.

Mr. DENMAN.—Q. Was there anything said, anything further said in that conversation regarding the whistles exchanged between the vessels?

A. Only Captain Lie said that he heard our whistle for about 15 minutes, and that he knew it was either

(Testimony of Robert E. Judson.)

the "Bear" or "Beaver," or he thought it was either the "Beaver" or the "Bear."

Q. How long had you been on the "Beaver" at that time?

A. About 4 or 5 months, I believe.

Q. About 4 or 5 months?

A. Yes, I think I was about three months on her.

Q. While you were on the bridge had you ever seen the "Beaver" while she was going ahead put full speed astern? A. Yes.

Q. What is the effect upon the course of the vessel under those circumstances?

A. The course of it?

Q. The effect; what is the effect on the course of the vessel of putting her full speed astern when you are going ahead through the water?

A. It stops and swings her bow.

Q. Which way does it swing the bow?

A. It swings the bow to the starboard.

Q. How soon does it begin to swing—does it swing rapidly or slowly? A. Very rapidly.

Q. Now, suppose you do not put your propeller astern but simply put the helm hard-a-port when you are going ahead through the water at say 12 knots speed?

Mr. McCLANAHAN.—I object to that until the witness has qualified as to that.

Mr. DENMAN.—Q. Have you had occasion to put the helm from one side to the other when you were going at 12 knots speed through the water?

A. Yes. [409—290]

(Testimony of Robert E. Judson.)

Q. Did you notice the effect on the vessel of putting her helm from one side to the other, when going ahead? A. Yes; it swings very rapidly.

Q. In other words, she responds readily to her helm? A. Yes.

Q. Would she respond more or less readily when she is light in the water?

A. Well, when she is light—

Q. (Intg.) Would she respond more or less readily? A. More.

Q. More readily? A. Yes.

Q. What was the condition of the sea on that day?

A. Well, there was a heavy swell.

Q. Relatively speaking, how heavy was the swell?

A. Well, I call it more than a moderate swell.

Q. What was the condition of the bar?

A. Well, the bar was breaking slightly when we went out.

Q. How was it when you came back?

A. Well, it was a very heavy bar.

Q. A very heavy bar when you came back?

A. Yes.

Q. Had you ever seen the bar breaking without a wind blowing before? A. No, sir.

Q. How many years have you been travelling over the bar? A. Fifteen years.

Q. How many years? 15 years? A. Yes.

Cross-examination.

Mr. McCLANAHAN.—Q. Mr. Judson, are you in the employ of the San Francisco and Portland Steamship Company, now? A. No, sir.

(Testimony of Robert E. Judson.)

Q. When did you leave?

A. In February I think it was.

Q. February of this year? A. Yes.

Q. Soon after the collision?

A. Well, the collision was in November. [410—291]

Q. What day in November was the collision?

A. The 22d I believe it was.

Q. The 22d of November?

A. I would not be sure of the date.

Q. Why did you leave?

A. Why I left? Because I had a better position.

Q. What is your position now?

A. Second officer.

Q. Who with? A. With Bowes and Andrews.

Q. On what vessel?

A. The "Tahoe," a steam schooner.

Q. Running where?

A. To Gray's Harbor and Portland.

Q. How long had you been on the "Beaver"?

A. About three months I think; I would not be sure as to the dates. I don't know what date I joined her.

Q. You mentioned something about five minutes, Mr. Judson, as being a time when you did something on the "Beaver" after she had started for San Francisco, after the collision. What was that something? Was that the time when you noticed Point Reyes, about five minutes after she had started back?

A. No; that was the time I came on the bridge,—

(Testimony of Robert E. Judson.)

I knew it was Point Reyes.

Q. You mentioned five minutes as being some period of time; was that the time after you had started back to San Francisco that you saw Point Reyes?

A. I say she had been running about five minutes when I came on the bridge.

Q. What time was that?

A. Well, that was somewhere around 4 o'clock, within a few minutes of 4; probably 10 or 5 minutes of 4 then.

Q. 10 or 5 minutes of 4 then? A. Yes.

Q. You started back?

A. No, when I came on the bridge; it was probably 5 minutes before that, might have been 10 minutes before, when we started back.

Q. Have you examined the logs, either the engine room log or the [411—292] bridge log of the "Beaver" since the collision? A. No.

Q. You don't know what those logs show?

A. No.

Q. As the time you started back? A. No.

Q. Where were you when you saw Point Reyes?

A. Just about the time I came up from the port where we had been taking the "Selja's" crew aboard?

Q. The crew were on board at that time?

A. Supposed to be.

Q. Had you gotten your boats up out of the water?

A. We hoisted our boats up again into position.

(Testimony of Robert E. Judson.)

Q. Then you stood by and then went forward?

A. Then I went forward on the bow.

Q. And then it was that you saw Point Reyes?

A. Well, just about that time. I was looking back from the bow to the Point.

Q. How long was that? A. A minute or two.

Q. Didn't you go there to examine the condition of the bow? A. Yes.

Q. Could you do that in a minute or two?

A. The chief officer was there and I walked forward with him.

Q. And stayed with him while he made the examination?

A. No. He had been forward before that, and he went forward again and went down into the hold; he went down and I went up on the bridge.

Q. Who told you to go forward? A. No one.

Q. No one? A. No.

Q. When did your watch commence on the bridge?

A. It was supposed to commence that night at 8 o'clock; you see the chief officer had the 4 to 8 watch, but the second officer had been on until 4 o'clock, you see. [412—293]

Q. You relieved the second officer?

A. I relieved the second officer and the chief officer looked after the ship.

Q. So that it was about 4 o'clock you were on the bridge?

A. Somewhere around there, I could not say exactly.

Q. When you went there you went there to relieve

(Testimony of Robert E. Judson.)

the second officer? A. Yes.

Q. Of course, you do not pretend to be accurate in these distances suggested? A. No.

Q. From Point Reyes lighthouse?

A. No. It is a matter of my judgment, that is all.

Q. The fog was still with you at the time you observed Point Reyes?

A. Well, it was foggy; still foggy, but very light back in the hills.

Q. It was lifting then as compared to the time of the collision? A. Oh, yes.

Q. Very much different? A. Yes.

Q. How long after the collision did it begin to lift?

A. Well, I did not pay much attention; probably half an hour afterwards.

Q. Your vessel after the collision lay there under stopped engines, did she? A. Yes.

Q. Did not anchor? A. No, sir.

Q. How soon after the collision did the "Selja" sink?

A. Well, I could not say that because I was in my bunk, you know, when she struck. I don't know exactly what time she struck. She sunk after I came on deck I should say about 7 or 8 minutes probably.

Q. You came on deck after the collision?

A. Yes.

Q. Was Captain Lie on the bridge when you came there? A. No.

(Testimony of Robert E. Judson.)

Q. How soon after that did he come on the bridge?

[413—294]

A. Probably 15 minutes or so.

Q. Had you seen him before?

A. I was down at the port when he came aboard.

Q. You knew the captain when he came on board?

A. I did not know it was the captain until after some of the sailors said who he was down there.

Q. Did you know it was the captain when he came on the bridge? A. Yes.

Q. Did he have on dry clothes then? A. Yes.

Q. So that he had changed his clothes since coming on the "Beaver"? A. Yes.

Q. Do you know where he went to change his clothing? A. No, I do not know.

Q. Do you know whose clothes he changed to?

A. No, I do not know.

Q. What were your duties on the bridge?

A. At all times?

Q. At this particular time.

A. Well, my duty was to stand there and see the ship kept properly on the course and look after the telegraph in case the captain wanted to maneuver the ship in any way.

Q. Did you give orders on the telegraph?

A. Oh, no.

Q. Who did?

A. The captain gave orders on the telegraph if he was on the bridge.

Q. And then you executed the order? A. Yes.

Q. That is you were there to receive the order

(Testimony of Robert E. Judson.)

from the captain? A. Yes.

Q. You were attending to your duties were you, at that time? A. Yes.

Q. And it was not one of your duties to pay attention to any conversation between the captain of the "Beaver" and the captain of [414—295] the "Selja"?

A. No. It was not my intention to stand there particularly and listen to them.

Q. You happened to hear this conversation?

A. Yes.

Q. How far away were you at that time from the two men as they were talking?

A. Probably 8 feet.

Q. How many feet? A. 7 or 8 feet.

Q. Were either of the men excited?

A. No. I know Captain Kidston was not a bit excited, but Captain Lie was—I don't know whether he was shaking from the cold or not—he was a little bit nervous.

Q. He did not talk in an excited tone of voice, did he?

A. No, I would not call it excited exactly; a little bit loud probably.

Q. Will you tell me what you heard first of that conversation?

A. The first thing when Captain Lie came on the bridge Captain Kidston says, "I see you have dry clothes on."

Q. That is the words, "I see you have dry clothes on"? A. Yes.

(Testimony of Robert E. Judson.)

Q. What did Captain Lie say to that?

A. He said he had dry clothes on, and Captain Kidston said he was sorry—

Q. Just a minute. I want to take up, Mr. Judson, the words used by each man, as far as you remember. The first words used by Captain Kidston were "I see you have dry cothes on." You remember that.

A. Yes.

Q. Now, then, Captain Lie said what?

A. Yes, he had dry clothes on.

Q. What did Captain Kidston say to that?

A. Then he told him he was very sorry he sunk the ship.

Q. Those were his words?

A. The Captain says, "I am sorry I sunk your ship."

Mr. DENMAN.—Q. Those are his exact words, or the substance of [415—296] the conversation?

A. Those are the exact words, I remember that.

Mr. McCLANAHAN.—Q. I want the exact words, as far as you can give them. A. Yes.

Q. What did Captain Lie say to that remark of the Captain?

A. Well, he said he had been laying there at a standstill for over 10 minutes, and been taking the soundings, and he got 35 fathoms, and then he said he knew it was either the "Beaver" or the "Bear," or he said he heard the whistle 15 minutes or over 15 minutes, and he knew it was either the "Beaver" or "Bear."

Q. All this was in answer to Captain Kidston's

(Testimony of Robert E. Judson.)

remark, "I am sorry I sunk your ship"? A. Yes.

Q. And you have given his words, as far as you can?

A. Those are the only words that I will swear to that Captain Kidston said.

Q. How far can you swear as to what Captain Lie said, that is to the exact words, in answer to Captain Kidston's remark "I am sorry I sunk your ship"? Give us what you can of his exact words.

A. Well, he said he had been laying at a standstill for over 15 minutes and that he had been taking soundings and gotten 35 fathoms. Now, I won't be sure about this, I think he asked where the "Bear" was, and he said he knew it was either the "Beaver" or "Bear" that had been whistling.

Q. Those were the exact words that you remember? A. Yes.

Q. You said 15 minutes; you did not mean that, did you? A. That he heard the whistle?

Q. That he had been at a standstill?

A. No, I said over 10 minutes.

Q. You meant 10 minutes?

A. I said "over 10 minutes."

Q. Over 10 minutes? A. Yes.

Q. What did Captain Kidston say—that was all Captain Lie said at [416—297] that time?

A. Yes.

Q. What did Captain Kidston say to that?

A. Well, there was some more conversation that I did not hear then because I had to move away.

Q. Did they move away from you?

(Testimony of Robert E. Judson.)

A. No, but I had to move away to look at the compass.

Q. So you don't know what Kidston said to this last statement of Lie's? A. No.

Q. Did he say anything?

A. Well, they were talking there.

Q. You were at the same place at the time?

A. No, I had walked over to the compass then.

Q. Have you seen Captain Kidston since the collision? A. Yes.

Q. When did you last see him?

A. I saw him this morning.

Q. Did you recite to him your version of the conversation?

A. Well, he asked me about the same questions he had some time before—he asked me some time after the collision what I had heard of the conversation.

Q. Now, please answer that. Did you recite to him this morning what you have recited to me now?

A. About the same, yes.

Q. Where was this meeting with Captain Kidston?

A. On California Street.

Q. In California Street?

A. No, on California Street.

Q. How did you meet him, by accident?

A. By appointment.

Q. Whereabouts was he on California Street?

A. On California Street across from the Merchants' Exchange.

Q. Is that Mr. Denman's office?

A. In the street there.

(Testimony of Robert E. Judson.)

Q. You met him in Mr. Denman's office?

A. No; I met him on California Street. [417—298]

Q. Did you have an engagement to meet him there? A. Yes.

Q. Rather than in Mr. Denman's office?

A. No. I had an engagement in Mr. Denman's office but I met Captain Kidston outside.

Q. By appointment? A. Yes.

Q. Whereabouts, downstairs? A. Yes.

Q. And you two at that time went over this conversation that Captain Kidston had with Captain Lie on the bridge? A. Yes.

Q. Did you agree?

A. What do you mean by agree?

Q. Did you agree in what the conversation consisted of?

A. Well, I just recited it and he did not say anything about what had been said, or anything like that; he says "that will do."

Q. That will do? A. Yes.

Q. That is, you did agree, then?

A. Well, I suppose so.

Q. He had no fault to find with what your version of the conversation was? A. Not a bit.

Q. Is that the only time you have spoken about this to Captain Kidston?

Mr. DENMAN.—He said he spoke to him once before.

Mr. McCLANAHAN.—Q. Is that the only time?

A. No. Probably two months after the collision I

(Testimony of Robert E. Judson.)

seen Captain Kidston on the ship, he came on board.

Q. Two months after the collision? A. Yes.

Q. Were those the only two times—

A. About a month after.

Q. Were those the only two times you have spoken to him about this conversation?

A. About the conversation, yes; but I saw him one day last week and he told me he would like to have me on this trial.

Q. I am speaking of the conversation, now.

A. Yes, that was the only two times. [418—299]

Q. When you saw him last week he knew that you knew the conversation or had heard the conversation? A. Yes.

Q. And he got that knowledge from you about a month after the collision? A. About that, yes.

Q. How did that first conversation between you and Kidston with reference to this conversation that took place on the bridge come up?

A. Why, I met him on the dock there one day and I was on duty, and he asked me what I had heard when Captain Lie was on the bridge.

Q. He asked you if you had heard the conversation that took place on the bridge?

A. He asked me first if I remembered Captain Lie's coming on the bridge and I said yes, and he asked me what I heard.

Q. Did you then tell it? A. Yes.

Q. Just as you told it here, now?

A. Yes, exactly.

Q. To me? A. Yes.

(Testimony of Robert E. Judson.)

Q. Under this cross-examination? A. Yes.

Q. Did Kidston take any note of what you said at that time, I mean any written memorandum?

A. Yes.

Q. He took it down in writing? A. Yes.

Q. Did you see the writing after it was taken down?

A. Yes, I signed a statement because I told him I was thinking of leaving the company.

Q. You did sign a statement at his request?

A. Yes.

Q. Did you keep a copy of the statement?

A. No.

Q. Did he say when you signed this statement that that agreed with his understanding of the conversation?

A. No, he did not say anything more about it.

Q. Did he demur to it? Did he object to it?

A. No. [419—300]

Q. It seemed to meet with his approval?

A. Yes.

Q. What kind of a statement was that; was it one that he prepared or was it already prepared?

A. Well, I guess he had it prepared after I told him.

Q. It was prepared for you to sign? A. Yes.

Q. At the time he met you? A. Yes.

Q. And contained the conversation on the bridge?

A. Yes.

Q. He presented it to you and asked you if it was all right and you said it was and signed it?

(Testimony of Robert E. Judson.)

A. Yes.

Q. Do you know who prepared that statement?

A. No.

Q. Mr. Judson, when was this conversation down at the dock when you signed this statement? You said it was about a month after the collision.

A. I should say it was about in December some time.

Q. In December some time? A. Yes.

Q. Can you fix it a little closer than that?

A. I cannot fix any date, no.

Q. When did you leave the ship?

A. In February.

Q. In February? A. Yes.

Q. Were you in the service of the vessel at the time? A. Yes.

Q. The statement was signed? A. Yes.

Q. Had she come from up north or south at the time? A. That I could not say.

Q. She was in port, was she not?

A. She was in port, yes; we were in and out all the time.

Q. Did Captain Kidston tell you what he wanted that statement for?

A. No. He did not pass any remarks about it at all.

Q. Did he show you that statement again yesterday, or was it this morning that you saw him?

A. This morning. [420—301]

Q. Did he show it to you again this morning?

A. No.

(Testimony of Robert E. Judson.)

Q. Did you ask about it? A. No.

Q. Did Captain Kidston go up to Mr. Denman's office wtih you? A. Yes.

Q. And was there during your examination with Mr. Denman? A. Yes.

Q. Was that statement referred to in this examination?

A. No. I did not go through any examination; he asked me about the conversation.

Q. That is what I meant. A. Yes.

Q. Was that statement referred to in the conversation between you in Mr. Denman's office?

A. No.

Q. Did either Mr. Denman or Captain Kidston refer to it? A. No.

Q. Do you know where it is? A. No.

Q. You have got a good memory?

A. Fairly good.

Q. As good as the average man?

A. I think so.

Q. Was there anything remarkable in Captain Lie's statement of the situation of the "Beaver" before the collision as you heard it in the conversation on the bridge—was there anything remarkable in what he said? A. No.

Q. It was not remarkable that he had been lying there at a standstill for 10 minutes, was it?

A. No; sometimes a vessel lies at a standstill listening for a vessel.

Q. It was not remarkable that he was taking soundings? A. No.

(Testimony of Robert E. Judson.)

Mr. PAGE.—You said "Beaver."

Mr. McCLANAHAN.—I meant "Selja."

Q. Was it remarkable that he found 35 fathoms?

A. No.

Q. In fact, there was nothing unusual in this conversation at all on the bridge, was there?

A. No; very usual, as I should judge. [421—302]

Q. Now, I understand that the statement which you signed coincides with what you have testified to under oath. A. Yes.

Q. As being the actual words used so far as you have testified to the actual words used? A. Yes.

Q. And I understand, also, Mr. Judson, that since the December meeting you have not seen Captain Kidston about this matter at all? A. I have not.

Q. Have you seen anybody else about it?

A. No.

Q. You have not referred to the matter to anyone?

A. No.

Q. You have not spoken to any one?

A. Probably a shipmate, or something like that.

Q. What would you want to speak to them about this for?

A. I might be asked questions about this.

Q. About what?

A. About the collision, how it happened.

Q. I am speaking about this conversation.

A. No.

Q. You did not speak about that. Of course, it is not anything unusual? A. No.

Q. So that between the December meeting and

(Testimony of Robert E. Judson.)

this morning you have not referred to that conversation at all? A. No.

Q. Has Captain Kidston talked to you about points in controversy in this case? A. No.

Q. You do not know what they are? A. No.

Q. You do not know the import of your evidence here with reference to that conversation, that is, how it affects the case one way or the other?

A. Well, no. Of course I know there is a suit against the ship.

Q. You don't know how this conversation on the bridge that you heard affects the case one way or the other? A. No.

Q. You don't know whether it is in favor of the "Beaver" or in [422—303] favor of the "Selja"?

A. Well, I don't know as it is going to favor any one; all I know is it is the truth; that is all I know about it. Of course, I don't know anything about the law business.

Q. Is Captain Kidston in the employ of the San Francisco and Portland Steamship Company?

A. That I don't know; he has not been on the ship since; whether he is in their employ or not, I don't know.

Q. Since when, since the collision?

A. No. After she went to the drydock, he was there a few days; he has never made a trip on her since.

Q. Now, Mr. Judson, about the movement of the "Beaver," when she is going astern, you say her bow swings to starboard? A. Yes.

(Testimony of Robert E. Judson.)

Q. Where did you ever try that?

A. Well, we tried it in the river several times coming on logs and things like that floating down the river.

Q. What river? A. Columbia River.

Q. Well, have you in mind a time when you tried it? A. No, sir.

Q. You have not?

A. No, I could not tell you the date or anything like that; it was several times those things happened in the river.

Q. Isn't it a well-known fact that any vessel that is working full speed astern, if she has a right-hand propeller—that it is well known among seamen that it will swing to starboard?

A. To starboard, a right-hand propeller?

Q. Yes, isn't it well known?

A. Yes, that is known to me, as far as my experience goes.

Q. As far as you know that is the common experience of vessels [423—304] at sea? A. Yes.

Q. Is this other experience a common one, as far as you know?

Mr. DENMAN.—What other one?

Mr. McCLANAHAN.—The one he testified to in his direct examination.

Mr. DENMAN.—About the logs?

Mr. McCLANAHAN.—He did not testify about the logs, he testified about the swinging to starboard, in the direct examination.

Mr. DENMAN.—He testified to several circum-

(Testimony of Robert E. Judson.)

stances. You mean with the reversed propeller?

Mr. McCLANAHAN.—Q. I will ask you, Mr. Judson, did you testify to the swinging to starboard of the "Beaver" under several circumstances?

A. Yes, when going ahead.

Q. When going ahead? A. With helm to port.

Q. And what is the other? A. Going astern.

Q. And when going astern? A. Yes.

Q. Well, now, I have asked you about the going astern? A. Yes.

Mr. DENMAN.—Do you mean going astern when she has forward motion—reversing of the propeller when she has forward motion?

Mr. McCLANAHAN.—Q. What do you mean?

A. I mean when the ship is going astern, when she is stopped.

Q. You have testified to a swinging of the "Beaver's" head to starboard under a port helm—

A. That is going ahead.

Q. (Intg.) Under two suppositions; first when the "Beaver" is going ahead? A. Yes.

Q. If you port your helm she will swing to starboard? A. Yes.

Q. Next when the "Beaver" is going astern and you port your helm—

A. No; there was not anything said about porting the helm going astern. [424—305]

Q. All right.

A. Sometimes the helm does not make any difference at all when going astern.

Q. That is true, isn't it, that sometimes the helm

(Testimony of Robert E. Judson.)

loses its efficiency when you go astern?

A. Yes.

Q. Your only testimony was that when you went astern, when the "Beaver" went astern, she had a tendency to swing to starboard? A. Yes.

Q. Irrespective of the helm? A. Yes.

Q. And the helm loses its efficiency when the vessel is going astern?

A. In some cases; she would not lose it in all cases; in some cases it is sometimes very cranky when going astern.

Q. In your experience, Mr. Judson, you cannot rely upon the helm when she is going astern?

A. Not in all ships.

Q. I am speaking of the "Beaver." A. Yes.

Q. Those are the only situations that you testified to or meant to testify to with reference to the swinging to starboard?

A. The swinging to starboard, yes.

Q. When the vessel is going ahead, you port your wheel and she swings to starboard?

A. Yes; that is, her bow goes to starboard.

Q. Her bow. A. Yes.

Q. And when she is going astern—

A. Going astern she goes to, her bow swings to starboard again.

Q. Irrespective of the position of the helm?

A. Yes.

Redirect Examination.

Mr. DENMAN.—Q. Mr. Judson, suppose now you are in the Columbia River—do you recall such a case

(Testimony of Robert E. Judson.)

—suppose you are in the Columbia River and moving on a certain course. A. Yes. [425—306]

Q. And you see a log ahead and you give full speed astern? A. Yes.

Q. Of course it takes some time before you come to a stop? A. Yes.

Q. Do you remember what the effect on your course is, if you are going ahead, of that motion of the going full speed astern? How does it swing the head of your ship?

A. Well, to starboard.

Q. To starboard? A. Yes.

Q. Slowly or rapidly?

A. When she gets going she swings very rapidly.

Q. Now is your vessel quick to respond?

A. Very quick; one of the quickest vessels I ever saw to respond.

Mr. McCLANAHAN.—You are going over what you have been over once before. I did not mention anything about quick to respond; but you did twice on your direct examination. Now, you are going over it again on redirect examination.

Mr. DENMAN.—He has not contradicted it.

Mr. McCLANAHAN.—Therefore there is no necessity for you to ask it over the third time.

Mr. DENMAN.—Q. Do you remember coming to my office shortly after the collision? A. Yes.

Q. And giving me your version of this conversation? A. Yes.

Q. You know I had a stenographer there who took down your statement at that time? A. Yes.

(Testimony of Robert E. Judson.)

Recross-examination.

Mr. McCLANAHAN.—Q. When was it that you went to Mr. Denman's office after the collision?

A. I cannot remember the date, but I remember the fact of going up there. I can't remember the date.

Q. It is pretty hard to remember those things? [426—307]

A. I did not pay much attention to the case. I did not know I was going to be interested in it one way or the other.

Q. Was it after the ship had come out of drydock or before? A. I think afterwards.

Q. Was it after she had made a trip up north and returned? A. I believe so.

Q. It was before the signing of the statement on the dock in December? A. Yes.

Q. You remember distinctly this visit to Mr. Denman's office?

A. Yes, I remember the fact I was there.

Q. You did not in that statement refer to this conversation on the bridge?

Mr. DENMAN.—Q. You mean when he first came to my office?

Mr. McCLANAHAN.—Yes.

A. Yes.

Q. That was a part of the statement?

A. Yes.

Q. Then you had forgotten that conversation when I asked you?

A. Well, I did not remember about going to Mr. Denman's office.

(Testimony of Robert E. Judson.)

Q. You had forgotten that conversation when I asked if those were the only two times you referred to the conversation on the bridge? A. Yes.

Q. Is it likely that you have missed some other conversation with somebody else?

A. No, not about that, except maybe with my shipmates, because I have not been ashore here any time since to talk to anybody.

Q. You feel quite sure that you have given all the conversation you heard on the bridge?

A. Yes, sir.

Q. And this conversation about the bridge in Mr. Denman's office was taken down in shorthand?

A. I don't know about taken down [427—308] in shorthand; he had a stenographer there; I don't know what she did.

Q. You don't know whether she took it down or not? A. No.

Q. Did you ever hear what she took down afterwards?

A. No, unless it was the same statement I signed; it might have been, I don't know.

Q. Do you know the stenographer's name?

A. No, I don't think I would know the young lady again if I saw her.

Q. Did you in your statement in Mr. Denman's office give the version of the collision and your knowledge of it as you have given it here, practically?

A. Well, I don't know about the collision. I was in my bunk.

(Testimony of Robert E. Judson.)

Q. Well, all of this—

A. (Intg.) You mean the conversation on deck?

Q. Yes. A. Yes.

Q. This statement in Mr. Denman's office, did that refer only to the conversation on the bridge?

A. As near as I remember, yes.

Q. Didn't it refer also to the position of the south end of Point Reyes and the distance that you saw?

A. I don't remember.

Q. You don't think so? You think it just referred— A. (Intg.) I don't think it did.

Q. You think it referred just to the bridge?

A. Yes.

Q. You say it was a young lady who took it down?

A. I don't know whether it was a young lady or not; it was a lady anyhow.

Q. She was Mr. Denman's stenographer?

A. I should judge so.

Q. And this was before December when you saw Kidston?

A. Well, it was about that time. I think Captain Kidston, the day I saw him, I think he told me about going up to the office. I [428—309] think that is the time.

Q. Did you ever see this statement after it was transcribed and put into print?

A. The statement, I think, might have been the same—I don't know whether he had one made up or not.

Q. Let us not get confused.

A. The statement was the same anyhow, the one

(Testimony of Robert E. Judson.)

I had made, as the one I signed.

Q. The one you signed was the same as the one you made to Mr. Denman? A. Yes.

Q. Did you recognize it when you read it as being the statement you made in his office?

A. Yes. That is what I stated.

Q. You told me on your cross-examination that you did not know who prepared that statement.

A. I do not know. I told you I did not know whether that is the one or not; it might have been another copy.

Q. You don't know whether it was or not?

A. I do not know. I don't know of any difference in the paper.

Q. Who was present there at the office when you made this first statement to Mr. Denman?

A. Mr. Denman and Captain Kidston.

Q. Anybody else? A. The young lady.

Q. The stenographer. A. Yes.

Mr. McCLANAHAN.—Will you produce the statement?

Mr. DENMAN.—We will try to, yes.

(An adjournment was here taken until Thursday, June 29th, 1911, at 10 A. M.) [429—310]

Thursday, June 29th, 1911.

[Testimony of Joseph W. Ettershank, for Respondent.]

JOSEPH W. ETTERSHANK, called for the respondent, sworn.

Mr. DENMAN.—Q. Mr. Ettershank, what is your

(Testimony of Joseph W. Ettershank.)

full name? A. Joseph William Ettershank.

Q. What is your calling? A. Second officer.

Q. How long have you been to sea, how many years? A. About 12 years.

Q. About 12 years? A. Yes, sir.

Q. On this coast? A. Yes, sir.

Q. How long have you held officer's papers?

A. Four years, very near.

Q. What position did you hold on the "Beaver" on the day of her collision with the "Selja"?

A. Second officer.

Q. Were you on the bridge at the time of the collision? A. Yes, sir.

Q. From the time she left the harbor?

A. No, not on leaving the harbor. I came up after she got under way.

Q. After she got under way you went on the bridge? A. Yes.

Q. Were you on the bridge at the time she passed the Heads? A. Point Bonita?

Q. Yes.

A. I just came up before she passed Point Bonita.

Q. And were you on the bridge thereafter until the time of the collision—that was your watch on the bridge? A. Yes, sir.

Q. Was the captain on the bridge during any of that time? A. He was there all the time.

Q. You say all the time. Was he there continuously or did he leave the bridge at any time?

A. He left the bridge, and he turned the bridge

(Testimony of Joseph W. Ettershank.)

over to me when he went below for a few seconds. [430—311]

Q. What was the condition of the weather when you came on the bridge first?

A. It was overcast and hazy.

Q. Had you actually entered the fog at that time?

A. No, sir.

Q. Did you see No. 2 Buoy as you went out?

A. Yes, sir.

Q. How soon after that did you enter the fog?

A. Oh, it began to shut in after we passed the buoy.

Q. Did it continue to shut in until the time of the collision? A. It was foggy, yes.

Q. What was the condition of the ocean at that time?

A. Heavy westerly swell, heavy ground swell running.

Q. What was your course after leaving Red Buoy No. 2? A. What is that?

Q. What was your course after leaving Red Buoy No. 2? A. South 83 west.

Mr. McCLANAHAN.—Q. Magnetic?

A. Well, there is hardly any deviation on westerly courses.

Q. That is by the bridge compass?

A. That is by the bridge compass.

Mr. DENMAN.—Q. Did you change your course after that? First you went south 83 west, is that correct? A. Yes, sir.

Q. How long did you keep on that course?

A. South 83 west?

(Testimony of Joseph W. Ettershank.)

Q. Yes.

A. Until we changed it a degree, one degree, made it 82, one degree more, when we came along to Duxbury Buoy—I did not see the buoy, it was kind of thick.

Q. Did you change your course after that?

A. Yes, sir.

Q. To what? A. After we passed the buoy?

Q. Yes.

A. Well, we read the log and changed the course at Duxbury, when the log was running the distance.

Q. And what course did you change to then?

A. North 86 west.

Q. North 86 west? A. Yes, sir. [431—312]

Q. How long—how were you heading with reference to the swell at that time?

A. Pretty near head on to it.

Q. How long did you continue on that course?

A. Until the time of the collision.

Q. Until the time of the collision? A. Yes, sir.

Q. You mean by that right up to the moment of the collision or to the neighborhood of the collision?

A. A couple of minutes before the collision.

Q. What happened a couple of minutes before the collision—did you hear any whistle?

A. We heard a whistle, yes.

Q. Whereabouts did you hear the whistle?

A. Starboard bow, about a point on the starboard bow.

Q. What did you do then? Where was the captain at that time when you heard that whistle?

(Testimony of Joseph W. Ettershank.)

A. Right below on the port side of the bridge, down on the other side of the deck, I was walking right across the bridge.

Q. On the port or starboard side of the vessel?

A. On the port side.

Q. On the port side of the vessel?

A. Yes, sir. The quartermaster heard the whistle at the same time, and he says, "Did you hear the whistle," and I says, "Yes," and I sung out right to the captain.

Q. What did you—

A. (Intg.) He was right down below the bridge.

Q. What did you sing out to him?

A. I told him there was a whistle a point on our starboard bow.

Q. What did he do?

A. He immediately came up.

Q. What did he do then?

A. He starboarded the helm. I looked at the compass.

Q. He starboarded the helm; did she swing over any?

A. She swung over in the neighborhood of half a point. [432—313]

Q. To what direction?

A. She swung to the southward.

Q. Well, is that to port?

A. To port, sure, yes.

Q. Did you hear any whistle after that first whistle? A. Well, our whistle blew.

Q. But did you hear any other whistle?

(Testimony of Joseph W. Ettershank.)

A. We heard his whistle again.

Q. Where was it?

A. About a point on our bow, still, in the neighborhood of that.

Q. What happened then?

A. The captain ordered the helm hard-a-port and stopped her, and then at the same time he put the telegraph full speed astern and rang two or three times.

Q. Rang the telegraph two or three times?

A. Yes.

Q. What is the purpose of ringing it two or three times?

A. Well, for them down in the engine-room to know that he wants all the power they can get.

Q. Going astern?

A. Yes, sir, going astern.

Q. What horse-power have you on your vessel? Do you know the number of horse-power?

A. No, sir.

Q. Did you blow any signals at that time?

A. The captain blew three whistles.

Q. The captain blew three whistles?

A. Yes, showing that he is backing, going astern with the ship.

Q. Did you see the "Selja" after that?

A. Yes, I seen her in a few, in a matter of a few seconds, half a second or so—I mean half a minute or so.

Q. Where was she lying when you saw her?

A. In the trough of the sea.

(Testimony of Joseph W. Ettershank.)

Q. I mean whereabouts from you?

A. On our starboard bow.

Q. On your starboard bow? A. Yes, sir. [433—314]

Q. And at what angle was she lying to you at that time?

A. Well we was heading west, and she was heading like that, at right angles.

Q. At right angles? A. Yes, sir.

Q. What happened to your ship when you backed her full speed astern and put your helm hard-a-port?

A. Well, she swung to starboard.

Q. She swung to starboard?

A. And came pretty fast.

Q. Did she strike the "Selja"?

A. She hit her, yes.

Q. Whereabouts? A. Forward of the bridge.

Q. Forward of the bridge?

A. Yes, No. 2 hatch.

Q. About what angle did she strike her?

A. Pretty near right angles.

Q. About right angles? A. Yes, sir.

Q. What happened after that?

A. Well, we held on there for a little while.

Q. Then what happened?

A. We backed away from her.

Q. What did you do after the collision, after she struck? Where did you go?

A. I was down helping the men, and I went down to look at the bow, and sound the forepeak tank, the fresh water tank there.

(Testimony of Joseph W. Ettershank.)

Q. Was she making any water?

A. I took the sounding; and held a taste and did not taste any salt in it at all.

Q. What did you do then?

A. I went down to help to get the men aboard; I was at the port upon the main deck and helping to get the crew in; we had a Jacob's ladder over there.

Q. What else did you do?

A. I reported to the captain on the bridge.

Q. How long was that after the collision that you reported to the captain on the bridge?

A. I reported about the tank right away [434—315] afterwards and then he told me to go down and help them to get the boats alongside.

Q. Well, then how soon did you come on the bridge again that day, that afternoon? A. Yes.

Q. How soon after you reported the first time did you go on the bridge again?

A. Well, she was—it was just before we got under way again, somewhere about—I don't know what time it was.

Q. Within half an hour? A. Oh—

Q. Three quarters of an hour?

A. It was less than half an hour, about 20 minutes, something like that, I guess.

Q. Were you on the bridge when she finally got under way? A. Yes, sir.

Q. Did Captain Lie come on the bridge at any time? A. Yes, sir.

Q. When was it?

A. It was just after we got under way he came up

(Testimony of Joseph W. Ettershank.)

on the bridge, and the third mate and myself and the captain was there; he came up on the starboard side of the ladder.

Q. What happened? Was there any conversation between any of the officers there and Captain Lie?

A. Our captain was talking to him.

Q. What, if anything, was said in that conversation?

A. Well, there was some words that was said. The captain took hold of him and said, "You have got dry clothes on," and Captain Lie says, "Yes, I am all right." Captain Kidston then says, "Well, I am sorry that I sunk your ship."

Q. What followed in that conversation, if anything, on Captain Lie's part?

A. He said he was laying dead still, he said, taking soundings; he says he knew it was the—he says, "I heard your whistle for somewhere around, about 15 minutes," he says, "before you hit us"; he says, "I knew it was the 'Bear' or the 'Beaver' by the whistle." [435—316]

Q. Was there anything said as to the length of time he had been lying there?

A. He said he had been stopped there for 10 minutes.

Q. Was anything further said in that conversation regarding the people on board of the "Selja"?

Mr. McCLANAHAN.—Let him give the conversation.

Mr. DENMAN.—Q. Give whatever you remember of the rest of the conversation.

(Testimony of Joseph W. Ettershank.)

A. The captain asked him if he had all his crew, and he said he did not know until he mustered them. I remember him saying that, too.

Q. Where were you during the time of this conversation? A. On the bridge.

Q. On the bridge?

A. Yes. Of course I did not stand right alongside of them to listen to them, but they were talking loud enough so that I could hear.

Q. What was the condition of Captain Lie when he came on the bridge? A. Very nervous.

Q. Had he been overboard?

A. He said that his boat had gotten smashed and he lost all of his papers and money and all that.

Q. After you left the bridge the first time and went forward you say you came back and reported to the captain and then you went aft to help with the boats?

A. Yes.

Q. Did you at any time during that period see the land?

A. I seen the land, yes, after I came up on the bridge, before we got under way, there.

Q. What land could you see?

A. I saw the loom of Point Reyes, and you could see the southward point of Drake's Bay there.

Q. Southward point of Drake's Bay. Do you mean by that the point at the south of Drake's Bay?

A. South of Point Reyes.

Q. Did you take any bearings of that?

A. No, sir. The captain [436—317] took bearings while I was away.

(Testimony of Joseph W. Ettershank.)

Mr. McCLANAHAN.—Q. You don't know that, do you?

A. Only from what he told me, that he got the bearings.

Mr. DENMAN.—Q. What direction was the south point from you? What direction did it lie from you? I am not asking you now for the specific bearings, I am asking for the general direction.

A. It was west of northward.

Mr. McCLANAHAN.—What is that?

(The answer repeated by the Reporter.)

Q. Is that your answer? A. Yes, sir.

Mr. DENMAN.—Q. You don't mean to give it in exact points of the compass, do you? A. No, sir.

Q. What distance did the south point seem to be from you, as far as you could judge?

A. Oh, I guess four or five miles off from us.

Q. And could you see the north point at that time?

A. Point Reyes?

Q. Yes.

A. You could see it there, see the loom of it, and you could see the steam from the whistle blowing.

Q. The steam from the whistle blowing?

A. Yes, sir.

Q. Could you hear the whistle?

A. No—I did not hear it.

Q. About how far off did the north point seem, in rough figures?

A. About seven miles or so, I guess, in that neighborhood.

Q. How long did you remain on the bridge after

(Testimony of Joseph W. Ettershank.)

you started to come back?

A. Well, I was not there long, because the third mate relieved me; after 4 o'clock my watch was up.

Q. Do you know what course you sailed coming back? Did you enter the course on your log, by the way? A. South 71 east.

Q. South 71 east? A. Yes, I think so.

Q. That was the bridge compass?

A. The bridge compass. [437—318]

Q. You say that there is no deviation on a westerly course. How was it on a course east southeast? What deviation does your compass show on east southeast. A. About 4 degrees, I think.

Mr. McCLANAHAN.—Q. Where? At this point?

A. Around 4 or 5 degrees, I don't know exactly.

Mr. DENMAN.—Q. Where did you go then? Where did you go after you were relieved, after your watch was up—where did you go?

A. Well, I was down around the ship; went around the ship.

Q. You say that when you heard the second whistle of the "Selja" you went full speed astern?

A. We stopped her and went full speed astern, you know, and she was stopped first, the captain stopped her, and then she went full speed astern.

Q. Was there any appreciable length of time between those two movements?

A. No—a second or two.

Q. Was your log out at that time?

A. Yes. We sent the quartermaster aft to haul it in.

(Testimony of Joseph W. Ettershank.)

Q. What did he report the log? How many knots?

A. The log showed 19.6 of a knot.

Q. 19.6 knots. Where did you stream the log on the out trip?

A. We streamed it after we passed Point Bonita, but we did not set it until we was at the Red Buoy,—to get the turns out of it, you know, before we came up to the buoy.

Q. You set it at the Red Buoy?

A. Yes, at zero.

Q. What, if any, is the effect on the log in sailing into a head swell such as you had that day?

A. Well, the log runs a little over.

Q. How much will it run over? How much will it run over in an hour?

A. Well, about half a mile, or three-eighths of a mile, something like that. [438—319]

Q. Half or three-eighths of a mile? A. Yes.

Q. How did you regard the swell on that day? Was it heavy?

A. Yes, it was a heavy northwest swell.

Q. You say northwest.

A. I mean westerly; heavy westerly swell running.

Q. Did the "Selja" have any way on her when you first saw her? A. No, sir; not that I could see.

Q. At what angle did you strike her—I think I asked you that? A. Pretty near right angles.

Mr. DENMAN.—I think that is all.

Cross-examination.

Mr. McCLANAHAN.—Q. You say the captain took bearings of Point Reyes and South End?

(Testimony of Joseph W. Ettershank.)

A. Yes.

Q. Do you know what they are?

A. No, sir, I did not ask him. He just told me he took them, he took the bearings and got the distance off, he says.

Q. He never showed you what they were?

A. I never asked him.

Q. You do not know what they were?

A. No, sir; I do not.

Q. Never been told what they were?

A. No, never have been.

Q. You think when you saw Point Reyes and saw South End that you were about where the collision took place?

A. Well, we was not very far away, sir.

Q. You are smiling; what is the point? Do you mean—

A. I am smiling—what do you mean by smiling?

Q. Do you mean that is a foolish question?

A. No, no.

Q. It is your best judgment that is about the point of the collision?

A. It was about, in that locality, it was not very far. It could not be in the spot, because we were bound to move; the swell would take us away from the spot, any way, wouldn't it? [439—320]

Q. The swell would take you away from the spot?

A. Well, yes.

Q. Would the swell take you away?

A. Sure; it would roll us in, wouldn't it?

Q. I am asking you. A. I would say yes.

(Testimony of Joseph W. Ettershank.)

Q. In your judgment the swell would take you away from the spot of the collision, without any wind? A. What do you mean by that?

Q. Just answer the question.

A. Well, we was in the same locality as we hit it.

Q. Answer the question, would the swell take you away from there? A. You see, we would drift.

Q. The swell would make you drift?

A. We would drift, and the wind would help, too, wouldn't it?

Q. There was no wind that day, was there?

A. It was blowing a little bit, yes.

Q. Do you recall any wind that day?

A. There was a light breeze blowing, yes.

Q. Was it such a wind as would affect the "Beaver"?

A. The ship stands pretty high, you know; it don't take much wind.

Q. Isn't it a fact that all hands agree there was a very light wind?

A. I said it was light. I didn't say it was strong.

Q. Now, did that wind affect the "Beaver" and blow her away from the point of collision?

Mr. DENMAN.—You mean away at all or any considerable distance?

Mr. McCLANAHAN.—Let the witness qualify his answer if he wants to.

Q. I am asking for your judgment only. Well, you do not seem [440—391] inclined to answer that question.

Mr. DENMAN.—I do not think he quite under-

(Testimony of Joseph W. Ettershank.)

stands the question.

A. The wind and swell would, if the ship had stopped, it would help her to go out of position.

Mr. McCLANAHAN.—Q. The wind would?

A. The wind and the swell both, yes.

Q. Now, suppose there had been no wind, would the swell do it? A. Sure, she would.

Q. You are quite sure of that, are you?

A. Why, certainly.

Q. Don't you know, Mr. Ettershank, that that swell would not have any effect on the ship at all, without wind?

A. No,—I don't understand what you mean.

Q. Why not? What is the matter with my question?

A. You mean to say a vessel in a swell like that, it won't affect her any, won't take her away?

Q. You are asking me questions now.

Mr. DENMAN.—That is a fair question.

Mr. McCLANAHAN.—Q. In your judgment then, the swell would affect the ship? A. Sure it would.

Q. And drive her away from the point of collision?

A. Sure it would.

Q. Your theory of this collision was that the swell brought the vessels together, wasn't it?

A. What was that?

Q. That the swell brought the vessels together.

A. Oh, no; I ain't talking that way at all.

Mr. DENMAN.—He has not testified as to his theory of the case at all.

Mr. McCLANAHAN.—Q. Have you any theory as

(Testimony of Joseph W. Ettershank.)

to how this collision took place? [441—322]

Mr. DENMAN.—Do you mean from his testimony as to the distance of the vessels?

Mr. McCLANAHAN.—I do not know whether it is in his testimony or in his head.

Q. Have you any theory as to how this collision took place? Can you answer that question?

A. The weather was foggy.

Q. Is that all you can say, that it took place because of the fog?

A. His ship was dead stopped, and he ought to have blown two whistles instead of one whistle.

Q. Anything else? Your ship was stopped, too, was it not?

A. After the collision, yes, we stopped.

Q. Before the collision?

A. We stopped just before the collision and backed her, yes.

Q. Your vessel was not making any way through the water at the time of the collision?

A. Sure, because we was going ahead and then we stopped and backed, but it took a second or two for her to back, to pick her way up to back—she must have had way on her.

Q. Your testimony now is that she did have way on her at the time of the collision?

A. Not when she hit, I did not say that, no.

Q. What was the condition of the "Beaver" at the time of the collision, did she have way on her?

A. Ahead?

Q. Yes.

(Testimony of Joseph W. Ettershank.)

A. Well, we was just on top of *one the* swells and we came down.

Q. So she did not have any way on her?

A. She did not have any way on her.

Q. I am getting at your theory. Then if the "Selja" was stopped in the water, and the "Beaver" at the time of the collision had no way on her, then you think that the swell brought the two vessels [442—323] together?

A. We was right on the top of the crest of a swell and she was laying in the trough of the sea and we came right down and cut into her.

Q. So that the swell brought the ships together?

Mr. DENMAN.—He said it cut down into her.

Mr. McCLANAHAN.—Q. Is that your version of it? A. Yes.

Q. That is, the action of the swell brought those two dead stopped ships together?

A. Just before the collision came, I say, that is the way she was hit.

Q. I am not talking about just before the time of the collision now. I say it was the swell that brought the two ships in contact at that moment? A. Yes.

Q. In your judgment the "Beaver" was dead in the water at the time of the collision taking places, as far as making any movement through the water with her engines or through momentum?

A. She was swinging with her helm hard-a-port, swinging to starboard all the time.

Q. The "Beaver" was dead in the water?

A. No. How could she be dead in the water?

(Testimony of Joseph W. Ettershank.)

Q. She was making no way?

A. Making no way?

Q. Making no way in the water at the time of the collision; is that it? A. No.

Q. She was not? A. No.

Q. Now, what was her speed? What was her speed at the time you reversed the engines?

A. I think around 12—I think it was around 13 miles an hour, I guess, we was going.

Q. 13 knots an hour, you mean?

A. 13 knots an hour.

Q. That is the time you reversed the engines?

A. Yes.

Q. That was reduced speed, was it not?

A. Yes, she had been [443—324] reduced—the speed had been reduced.

Q. When did you reduce the speed?

A. Before the collision the engineers had been notified.

Q. You say before the collision? A. Yes.

Q. How long before the collision, Mr. Ettershank?

A. Oh, just after we passed Duxbury, it got foggy around there; I guess 3 o'clock, somewhere around that—I don't remember exactly the time.

Q. Oh, yes. You remember the time you passed Duxbury Reef.

Mr. DENMAN.—He has said about 3 o'clock.

Mr. McCLANAHAN.—Q. You remember the time you passed Duxbury, you remember that time?

A. 2:15, yes.

Q. What is that, 2:15? A. Yes.

(Testimony of Joseph W. Ettershank.)

Q. Was it then that you reduced the speed?

A. No, it was long—it was after we passed.

Q. After you passed? A. Yes.

Q. Around 3 o'clock?

A. Around 3 o'clock, yes.

Q. What do you mean by saying you reduced speed? What did you do to reduce it?

A. I did not do it. The captain ordered it reduced.

Q. How do you know he did?

A. Because he called for the quartermaster.

Q. Did you hear him? A. I did, certainly.

Q. What did he say to the quartermaster?

A. I don't know. He was down on the other deck, he gave him an order to go to the engine-room. He gave him a note for the engine-room.

Q. Did you see him do anything? You say you did not hear it?

A. I could not hear it way down in the engine-room, to say they reduced the speed.

Q. I am talking about Captain Kidston. What did Captain Kidston say? [444—325]

A. He says, the speed is reduced to 76 turns, he says.

Q. He said that to whom?

A. Me, on the bridge.

Q. That was after he had handed the note to the quartermaster?

A. He was right down below on the ladder and I was walking across.

Q. You know, as a matter of fact, that the revolu-

(Testimony of Joseph W. Ettershank.)

tions were reduced to 76 at 3:10, don't you?

A. Yes, sir.

Q. 3:10? A. 3:10.

Q. Do you know what was in that note?

A. I did not see it, because they were down on the other deck below me, I could not see.

Q. Before that your telegraph was at full speed, was it not? A. Yes, sir.

Q. And remained at full speed up to the time you reversed it, did it not?

A. We had full speed, you say?

Q. The telegraph remained at full speed up to the time you reversed?

A. Yes. There is not only full speed on it; it has half speed, slow and stop; that is ahead. And then the same astern again.

Q. What would slow speed be?

A. We would be just turning.

Q. How many revolutions, do you know?

A. No.

Q. You are not an engineer? A. No, sir.

Q. Do you know how many revolutions full speed is?

A. What our ship does when she goes full speed?

Q. Yes. A. She makes 84 revolutions.

Q. Eighty-four at full speed? A. Yes, sir.

Q. So then up to the time the revolutions were reduced, if they were reduced, she was making 84 revolutions?

A. I don't know if she was making it; we had been running the watch and had not been getting the revo-

(Testimony of Joseph W. Ettershank.)

lutions whistled up from the engine-room—I could not tell you that—she was supposed to be going [445—326] full speed.

Q. It was supposed to be 84 turns?

A. I don't know whether she was going 84 turns or not. I could not tell you, because I don't know.

Q. Did you talk to Captain Kidston about the point of collision, Mr. Ettershank, about where it took place? A. Yes, we talked.

Q. You and he agreed practically as to where the collision took place? A. Yes.

Q. What is that? A. Yes.

A. About six miles from Point Reyes and four miles from the South End.

Mr. DENMAN.—He did not say that.

Mr. McCLANAHAN.—Q. Wait a minute. I am asking that question, about six miles from Point Reyes? A. Six or seven miles, something like that.

Q. Do you know what Captain Kidston says was the point of collision, where it was? A. What?

Q. Do you know where he believes the collision took place? A. South of Point Reyes.

Q. How far from Point Reyes?

A. About six miles.

Q. How far from the South End?

A. About four or five miles.

Q. So you and he practically agree as to the point of the collision? A. Yes, sir.

Q. Your last departure was Red Bouy No. 2, was it not? A. Red Bouy No. 2.

Q. What hour was that?

(Testimony of Joseph W. Ettershank.)

A. The time we passed Red Bouy?

Q. Yes.

A. Before 2 o'clock. It was before 2 o'clock we passed there. [446—327]

Q. Don't you know it was 1:45?

A. I have got it marked down in the log-book.

Q. Where is the log?

A. It is marked down in there.

Q. You put it in there, in the log, didn't you?

A. Sure I did.

Q. Let us see the log? A. Before 2 o'clock, yes.

Q. Turn to the entry. A. 1:45 No. 2.

Q. 1:45? A. Yes, sir.

Q. Now, I have here Libelant's Exhibit No. 3, which is a map of San Francisco Entrance; you recognize the map, do you, Mr. Ettershank?

A. Yes, sir.

Q. Now, did you pass No. 2 Bouy on your port side, going out? A. Yes, sir.

Q. How far off, was it?

A. Oh, it was about an eighth of a mile—it was not very far.

Q. Could you see it?

A. Yes, sure you could; we had set our log at zero there.

Q. Just as soon as you passed the bouy then you altered your course? A. Yes, when she was abeam.

Q. What is the course that you set after you passed the bouy? A. Up to Duxbury?

Q. Yes. A. We steered south 83 west.

Q. When did you steer south 82 west?

(Testimony of Joseph W. Ettershank.)

A. That was before we came opposite Duxbury Reef.

Q. When did you change?

A. Well, around—it was not far away—that is there in the log-book, 2 o'clock.

Q. That is, your course first was south 83 west magnetic? A. Yes.

Q. And then about 3 o'clock you changed it to 82?

A. No—2 o'clock. [447—328]

Q. About 2 o'clock? A. Yes, sir.

Q. 1:45 it was south 83 west and at 2 o'clock it was changed to south 82 west? A. Yes.

Q. Now, will you please take these parallel rulers, Mr. Ettershank, and put your south 83 west course from the buoy on this map—south 83 course. I want you to be careful about this, accurate. Can you tell what south 83 magnetic would be true?

A. No deviation on that hardly at all. Let see, south 83.

Q. I mean on that compass that you find there, what it would be true. Can't you run that course for me, Mr. Ettershank? A. Of course.

Q. Just take your south 83 magnetic on your compass there on the chart and plot your course from Red Bouy. Did you ever plot a course, Mr. Ettershank? A. Sure, I have laid out courses.

Q. What is the difficulty about this?

A. Nothing at all.

Q. Well, let us get at it then. Mr. Ettershank, you are now running your parallel rulers from Duxbury Reef in line with Red Bouy No. 2, aren't you?

(Testimony of Joseph W. Ettershank.)

A. Yes.

Q. That isn't the way to plot a course.

A. I know it isn't.

Q. Commence at your compass.

Mr. DENMAN.—Pardon me. Let me ask one question: Are the degrees marked for the magnetic course on this compass?

A. No, the degrees are not on there.

Mr. McCLANAHAN.—Q. Your ruler had slid again. You can't get it that way. I am *point* to this outer circle, Mr. Ettershank, on the compass; what is that, true or magnetic? A. Magnetic.

Q. The outer circle. What is the inner circle, true or magnetic?

A. That is in points—that is in degrees out here.

Q. So that the outer circle is the magnetic.

A. Yes. [448—329]

Q. And the inner circle is what?

A. That is in degrees.

Q. Degrees? A. Yes—I mean points.

Q. Points? A. Yes.

Q. That is all you know about that inner circle. Now, as a matter of fact, Mr. Ettershank, this outer circle is the true compass, and the inner circle is the magnetic compass. Now, with that assistance can you please find your course south 83 west magnetic, bearing in mind that the inner circle is the magnetic compass—what is the variation, Mr. Ettershank, on that compass? A. The variation?

Q. Yes. A. The variation is 18–15.

Q. What year was that? A. In *1916*.

(Testimony of Joseph W. Ettershank.)

Q. What was the variation, then, approximately, last year, 1910? About 17½, was it not?

A. That was—

Q. That does not show on the map. As a sailor, don't you know? A. There is an increase of 5.

Q. What is the variation, then, last year?

A. That is *1916* there.

Q. It would be about 17½ wouldn't it?

A. 17 or 17–45.

Q. Now, taking 17½ as your variation, can you get your south 83 west magnetic on your true compass there, by making the proper reductions? That will assist you in getting your course. Now, shall I mark that?

A. That would be the position of the buoy. That will be all right (pointing). That is all right.

Q. Now, you think you have got south 83 west magnetic. Shall I draw a line along the ruler there?

A. Yes.

Q. That is the dotted line which you see, the south 83 west magnetic course? A. Yes.

Q. Is that correct? Do you want to draw it over again and make sure of it? Will you answer my question so we can get along here? [449—330]

A. I will try it over again. (Pointing.)

Q. That does not correspond with your other line, does it? A. No, sir.

Q. Well, try it again. Put it down on the compass and try it again. Your dotted line you swear by, do you? A. That is south 83 magnetic.

Q. That is south 83 magnetic? A. No.

(Testimony of Joseph W. Ettershank.)

Q. Well, what is it? You understand you are plotting a course south 83 magnetic.

A. There you are.

Q. Do you want me to draw another line?

A. Yes.

Q. We will make this a straight line? A. Yes.

Q. And it is your course of south 83 west magnetic; is that right—from Red Buoy? A. Yes.

Q. Is that right?

A. That is south 83 magnetic and that is 86.

Q. What is this?

A. South 83 west magnetic from Red Buoy.

Q. That is just what—is that the line now that shows a cross and a cross, south 83 west magnetic?

A. Yes.

Q. Shall I draw a line along there? A. Yes.

Q. I will put a cross at the one end and a cross at the other? A. Yes.

Q. Now, the dotted line you discard? A. Yes.

Q. That was an error? A. Yes.

Q. When you changed your course at 2 o'clock you changed it one point, did you? A. At 2 o'clock?

Q. Yes. A. One point?

Q. Yes. Did you at 2 o'clock?

A. We changed it one degree.

Q. Which way?

A. That would bring her outside the buoy more. [450—331]

Q. It was changed to 82, was it?

A. To south 82 west.

Q. Will you run the course south 82 west, showing

(Testimony of Joseph W. Ettershank.)

the one degree? You find it a little difficult, don't you, Mr. Ettershank, to run that course? A. No.

Q. I wish you would hurry up. We have been nearly 15 or 20 minutes in this.

Mr. DENMAN.—I object to that. I think it has been about three minutes.

Mr. McCLANAHAN.—Q. Have you got it now, the 82? A. I am very nervous.

Q. You are not nervous, are you? Will you accept some assistance in getting that course, Mr. Ettersank, let somebody help you? There you are now. You have got it now? A. Yes.

Q. I am now marking the south 82 course with a dotted line. A. Yes.

Q. I will mark that at the end with a circle on the margin of the map. Now, the X I will mark, with your permission, as south 83 west magnetic, and the dotted line below it I will mark south 82 west magnetic. Now, that latter course, south 82 west magnetic, was the course that you steered when you passed Duxbury Reef? A. Yes.

Mr. DENMAN.—What? You have got the witness thoroughly rattled. He did not testify that. He testified that south 82 west—

Mr. McCLANAHAN.—I am not asking what he testified.

Q. Isn't that the course that you steered when you passed Duxbury Reef whistle, south 82 west? That is right, isn't it? Don't look at the captain; just answer my question. [451—332]

A. We changed the course from south 83 west to

(Testimony of Joseph W. Ettershank.)

south 82 west when we passed Duxbury Reef.

Q. When Duxbury whistle was abeam you were on the course south 82 west; is that correct?

A. Yes, sir.

Q. Now, will you take your dividers and tell me how far the whistle, the Duxbury whistle was from that course which you have placed on the map when you passed it?

A. About three-quarters of a mile.

Q. Three-quarters of a knot? A. Yes.

Q. That is correct, is it? A. Yes, sir.

Q. Of course, you did not hear the whistle when you passed it? A. No, sir.

Q. And you did not see it? A. No.

Q. Don't shake your head because a head shake can't go into the record. You neither heard nor saw the whistle? A. No, sir.

Q. Did you put it down in your log when you passed it? A. What? Duxbury?

Q. Yes. A. Yes.

Q. 2:15? A. 2:15.

Q. How did you know you were passing it?

A. Approximately.

Q. How do you know you were passing it when you neither saw it nor heard it?

A. Well, we run our log and it showed seven miles.

Q. Seven miles from where?

A. From the Red Buoy.

Q. Did you read your log? A. Yes.

Q. When? A. Before we changed our course.

Q. So that you are quite sure you passed it at

(Testimony of Joseph W. Ettershank.)

2:15? A. Yes.

Q. Through the reading of the log? A. Yes.

Q. Did you read the log?

A. No, sir. [452—333]

Q. Who did?

A. The quartermaster read it.

Q. What is his name? A. Alberson.

Q. Did he report the reading to you?

A. Yes. And I entered it in the log-book.

Q. And then you changed your course after that?

A. The captain was there when it was changed.

Q. Now, after passing Duxbury you changed your course which way?

A. North 86 west we steered then.

Q. North 86 west magnetic? A. Yes, sir.

Q. Is that correct? A. Yes.

Q. Any deviation on that course?

A. No deviation.

Q. And from Red Buoy No. 2 to Duxbury your engines were full speed? A. To Duxbury Reef?

Q. They were going full speed? A. Yes.

Q. Now, what would you say was her speed?

A. That we was making?

Q. At that time, between 1:45 and 2:15?

A. 1:45 and 2:15, what she was going?

Q. Yes.

A. I guess she was going around 15, or something like that.

Q. Around 15 knots? A. Yes.

Q. Did you log her speed? A. Sure, yes.

Q. Where is it? Is that the log?

(Testimony of Joseph W. Ettershank.)

A. That is the log-book.

Q. Let us see it. Turn to the entry.

A. The log was set at 1:45; Duxbury was abeam at 2:15. She made 7 miles in half an hour, 1:45 to 2:15, that is half an hour; she logged 7; the log runs a little ahead—the log shows 14 only.

Q. If the log only showed 14, it would be less than that, wouldn't it?

A. The log showed 7 miles—she would run half an hour, it showed 7. [453—334]

Q. Did the log show the true distance that the vessel run?

A. Well, that night—we might have run past Duxbury a little bit, sure.

Q. Might have run past it or run this side of it?

A. No; the log runs a little ahead of her.

Q. How far is it from Red Buoy No. 2 to Duxbury Reef?

A. Well, that is very near, pretty near to seven miles.

Q. Do you know the distance? A. Seven miles.

Q. I see in your log entry here that you have after the entry 2:15 Duxbury Reef, in brackets, "Approx." Is that your writing? A. Yes, sir.

Q. What does that "approx" mean?

A. Approximately, it was abeam.

Q. Approximately? A. Yes, sir.

Q. So that the entry of 2:15 is not intended to be exact?

A. It ain't exact, no; we did not see the buoy, so we could not say for sure.

(Testimony of Joseph W. Ettershank.)

Q. Now, she continued full speed after leaving Duxbury Reef, did she not? A. Yes, sir.

Q. Up to what time? A. 3:10.

Q. So that from 1:45 to 3:10 the vessel was making full speed? A. Yes, sir.

Q. What is the distance from Red Buoy No. 2 to —what would be the distance run by the boat from Red Buoy No. 2 at 1:45 to 3:10—how far would she have run by 3:10 going full speed?

A. From 1:45?

Q. Yes. A. From Red Buoy, to 3:10?

Q. Yes.

A. The log showed 19.6 knots when we hauled it in.

Q. 19.6 miles?

A. Yes, 19.6. She was a little bit fast, so it [454—335] would be about 19 miles that she run.

Q. It would be about 19 miles? A. Yes.

Q. How far is it from the North Heads to Red Buoy No. 2—two miles, isn't it?

A. About two miles, yes.

Q. When did she pass the North Heads?

A. Point Bonita?

Q. 1:37, was it not?

A. 1:37, yes, Point Bonita.

Q. Was that the time you altered your course for the North Channel, 1:37? A. Yes, sir.

Q. 1:37 North Heads, 1:45 Red Buoy No. 2, two miles in 8 minutes, isn't it?

A. 1:37 to 1:45, 8 minutes, yes.

Q. Two miles in 8 minutes? A. Yes.

(Testimony of Joseph W. Ettershank.)

Q. That speed was the same speed that you were running after leaving Red Buoy No. 2, was it not—the engines were still at the same revolutions?

A. Yes.

Q. Two miles in eight minutes, is 15 knots an hour, isn't it? A. 15?

Q. What is that?

A. If she had made it, yes.

Q. She must have made it?

A. She made it in the first eight minutes.

Q. Answer the question; two miles in eight minutes is a rate of speed of 15 knots an hour, isn't it?

Mr. DENMAN.—I object to that question as calling for the conclusion of the witness.

Mr. McCLANAHAN.—Q. Answer the question, Mr. Ettershank, if you can.

A. That is, if the vessel run—for the first two miles,—for the first eight minutes it shows that she had run 2 miles, yes.

Q. That was not my question. Please read the question to the [455—336] witness, Mr. Reporter.

(The last question repeated by the Reporter.)

A. It does not show—

Q. Read the question again.

(The last question again repeated by the Reporter.)

A. Yes. I don't know whether she had made that up to 3:10. It shows there that she did not make it, because the log, in half an hour, from the Red Buoy up there, is seven miles, and seven into 28 goes—it only ought to take 28 minutes when it took 30.

(Testimony of Joseph W. Ettershank.)

Q. Don't you know what—

A. She was not going 15.

Q. Was not going 15 when?

A. From that until past Red Buoy.

Q. After you passed Red Buoy? A. Yes.

Q. What stopped you from making 15 after you passed Red Buoy if you were making it before you reached it?

A. The westerly swell, I suppose, held us back some.

Q. Do you think that westerly swell held your boat back any? A. Certainly it did.

Q. What about the current there, Mr. Ettershank? Don't you know there is a current that sets northwesterly? A. It is flood tide, going out with it.

Q. Answer the question. A. Yes.

Q. Along the course from Red Buoy to Duxbury Reef? A. Yes.

Q. Don't you think that current would overcome the effect of that swell? Answer the question.

A. How does it read?

(The last question repeated by the Reporter.)

A. It would hold the ship back a little, yes.

Q. What would, the current or the swell?

A. The current would.

Q. And the swell too? Answer the question.

A. I said the current would hold the ship back.

[456—337]

Q. I ask you if the swell would?

A. Certainly it would.

Q. Answer the questions so we can get along and

(Testimony of Joseph W. Ettershank.)

get it into the record. I asked you the question and you sat dumb. We want to get along and get through.

A. I know you want to get along.

Q. I understand, Mr. Ettershank, that you logged the speed of the ship at 76 revolutions and found it 13 knots per hour; is that correct?

A. It is around 13, yes.

Q. Now, give me your best judgment of what she was making when she was going full speed before the reduction to 76 revolutions?

A. She must have been making about 14, I guess.

Q. Do you know the object of reducing the speed from 14 to 13 knots?

A. The captain, he done it, I did not do it.

Q. You don't know why he did it? Answer the question.

A. That is a matter of opinion, to reduce the speed.

Q. To reduce the speed. A. Yes.

Q. What did he want to reduce the speed for?

A. He did not want to run that fast.

Q. Why not? A. Because it was foggy.

Q. So you thought that he reduced the speed from 14 to 13 knots because it was foggy. Is that your idea? A. That is what I think, yes.

Q. When did you meet any vessel before you met the "Selja"?

A. We met a little fishing boat, one of the small fishing boats.

Q. When?

(Testimony of Joseph W. Ettershank.)

A. Oh, just after we passed Duxbury Reef.

Q. Did you meet it by the sound or by seeing the fishing boat?

A. We heard his whistle and seen him too. I heard his whistle, and then he was blowing his whistle because we was blowing ours.

Q. Did you meet any other vessel before you met the "Selja"?

A. No; we just met that little fishing boat, that is all I [457—338] remember.

Q. Let me try and refresh your recollection. Don't you remember testifying before the Inspectors in November, 1910, after the collision, and being asked there by one of the inspectors, had you met any vessel before you met the Norwegian steamer, and you said yes, and the question was then, passed by whistle or did you see them, and your answer was that you did not see them, there was one inside of us, and we met a little fishing boat?

A. I remember the fishing boat.

Q. What about this one inside of you? Don't you remember now that you did pass a vessel inside of you?

A. I think I do remember, yes. I think there was two we met before.

Q. Then your testimony before the Inspectors was true, was it not?

A. Well, yes; that has been a long time since and a fellow might make a slip, you know.

Q. So then your memory being refreshed by my reference to your testimony before the Inspectors

(Testimony of Joseph W. Ettershank.)

you now say that you did pass two boats?

A. Two boats.

Q. One on the inside and then the fishing boat on the outside? A. Yes.

Q. Did you see either of those? You remember you said before the Inspectors that you did not see either of them. Does that refresh your memory as to whether you saw them or not? Answer the question.

A. Let me just think. You are all laughing here, I do not see what the joke is about—you are smiling. There was two steamers.

Q. You met two steamers? A. Yes.

Q. You did not see them, though?

A. I seen the small fishing boat. [458—339]

Q. But you did not see the steamers?

A. No, sir.

Q. You met them by whistle. Where was the first whistle from the steamer that you heard, on what bow? Can't you answer that question?

A. Just wait a minute now.

Q. All right. Take your time.

A. I have more time than money. I think she was off, if I remember right—I think the steamer was on the port bow and the fishing boat was inside of us.

Q. I am talking now about the first steamer's whistle.

A. The first whistle was on the port bow.

Q. On the port bow. A. Yes.

Q. About how many points?

(Testimony of Joseph W. Ettershank.)

A. I don't remember now.

Q. How many times did you heard her whistle?

A. I don't remember that now, either.

Q. Several times? A. I don't remember.

Q. Do you know how far off she was?

A. No; she was away off.

Q. Away off from you—how far?

A. A mile—you could just hear her whistle; that is all.

Q. Were you on the bridge at the time?

A. The captain was there, too, yes.

Q. You and the captain were both there?

A. Yes, sir.

Q. Did you speak of the whistle to him?

A. I said, a whistle on the port bow, did you hear it, and the captain said he heard it, and the man sung out at the lookout.

Q. The captain said he heard it? A. Yes.

Q. You could not see the boat. A. No.

Q. The next whistle was on what bow, the steamer's whistle that you heard before you came up with the "Selja"?

A. The starboard bow. [459—340]

Q. Do you know how many points on the starboard bow?

A. Oh, I don't remember, I could not tell—no use saying, because I don't remember.

Q. What course was this second steamer on, going your way or coming toward you?

A. She was bound south.

Q. Bound for the entrance? A. Yes, sir.

(Testimony of Joseph W. Ettershank.)

Q. Was the other vessel bound for the entrance also? A. Yes.

Q. And you did not see the second vessel?

A. There was a fishing boat, one of them fishing tugs.

Q. I am talking about the two steamers that you saw?

A. One was a steamer and one was a fishing boat, I am telling you.

Q. You did not see two steamers? A. No, sir.

Q. You said a little while ago that you saw two steamers. A. Well, I meant the other two.

Q. Did you see the steamer before you saw the fishing boat? A. No, sir.

Q. Did you see the fishing boat?

A. Yes, we seen the fishing boat.

Q. How soon was that—how near was that?

A. She was about half a mile or three-quarters of a mile off.

Q. So then you did not hear her whistle at all if she had one? A. She blew with her whistle.

Q. A sailing boat?

A. A fishing—steam launch—one of those small fishing steamers.

Q. A fishing steamer?

A. A fishing boat—one of the Pallidini fishing boats.

Q. You did not stop when you heard the steamer's whistle on the port bow, did you?

A. No, sir, too far off; we was clear of it.

(Testimony of Joseph W. Ettershank.)

Q. You heard several whistles, too, did you?

A. We heard it blow two or three times. [460—341]

Q. How far off was she?

A. I don't know how far off she was.

Q. You said she was too far off a minute, too far off to indicate any danger of collision? A. Yes.

Q. How far is that, in your judgment?

A. Oh, she was all of a mile off, I guess, a mile away from us.

A. A mile off? A. Yes.

Q. So you had located that whistle sufficient to warrant you, in your judgment, that there was no danger of collision? A. We was clear of danger.

Q. And that is the reason you did not stop?

A. Yes.

Q. Mr. Ettershank, did you have anything to do with furnishing the information to the San Francisco and Portland Steamship Company from which they drew the answer in these cases?

A. What do you mean?

Q. You have told your story, have you, before, to Mr. Denman, or to some attorney for the San Francisco—

A. (Intg.) We talked it over, yes—we talked it over.

Q. You have told them practically what you told me? A. Yes.

Q. With reference to the speed of the "Beaver," have you told them about that?

A. We talked that over too, yes.

(Testimony of Joseph W. Ettershank.)

Q. When was this that you talked this over?

A. Oh, after the collision.

Q. After the collision? A. Yes, sir.

Q. Was it before any suit was brought?

Mr. DENMAN.—Q. Do you know when the suit was brought? A. Sir?

Q. Do you know when the suit was brought?

A. We was out in the drydock when the marshal came aboard.

Mr. McCLANAHAN.—Q. So you knew when the suit was brought [461—342]

A. I don't remember the date, but I remember the fact.

Q. And it was before that that you talked that over? A. We talked it over, yes.

Q. Before that?

A. The captain and I talked it over, yes.

Q. I am talking now about talking with the attorneys for the company.

A. No. I don't remember whether it was before or after; I can't remember that, sir.

Q. At any rate, you do not know that any of the information which you gave to the attorneys was used by them in framing an answer in this case?

A. I do not think it would because I told them the story just the way it happened. I don't see any framing up about it.

Q. Well, we are not charging a frame-up. When you passed Duxbury Reef who was on the bridge with you? A. I had the quartermaster there.

Q. Anybody else? A. No, sir.

(Testimony of Joseph W. Ettershank.)

Q. When you passed Duxbury nobody but the quartermaster was there. Are you sure of that?

A. I think the captain stepped on the bridge for a minute and asked me if I heard the whistle and I told him no. He was down underneath the bridge, there was a wind break, you know, there, and you can hear a whistle there sometimes that you can't hear on the bridge, a shelter up there, you know.

Q. The captain was not on the bridge when you passed Duxbury Reef?

A. He came up there and told me to change the course, which I did. He always came on the bridge and changed the course.

Q. If he came on the bridge he must have been down before he came up. Isn't that correct? He was not on the bridge when you passed Duxbury Reef? A. When we passed it? [462—343]

Q. Yes. A. Sure he was there.

Q. I thought you said he was down below and came up and asked you if you had heard the whistle.

A. He was down there and he came up on the bridge and asked me if I heard the whistle, and he wanted to know what the log read.

Q. Was he down below and off the bridge when you heard the whistle?

A. When he said that he heard the whistle I said I never heard them—yes.

Q. How long had he been off the bridge at that time?

A. I don't remember, sir, how long it was.

Q. Considerable time? A. No, sir.

(Testimony of Joseph W. Ettershank.)

Q. But you can't remember the time? A. No.

Q. Did he come on the bridge and then ask you if you heard the whistle?

A. He asked me if I heard the whistle and I told him I did not hear it. I think I was on the starboard side listening for the whistle,—I think I was.

Q. The quartermaster would not hear it on the port side?

A. No, I guess I would hear it quicker than he would.

Q. You did not hear the whistle? A. No.

Q. The captain said he had?

A. He said he had heard it.

Q. How far were you from Duxbury according to your memory?

A. We generally pass about a mile off.

Q. A mile off?

A. Or three-quarters of a mile from there.

Q. How far do you think you were off this day, according to your course laid—

A. About three-quarters.

Q. According to your course on the chart it is three-quarters of a mile, isn't it? A. Yes.

Q. Can you hear that whistle three-quarters of a mile? [463—344]

A. I have been pretty close to it and not heard it all, sometimes.

Q. Answer that, can you hear that whistle three-quarters of a mile off?

A. Sometimes you can and sometimes you can't.

Q. What would be the conditions that would make

(Testimony of Joseph W. Ettershank.)

it possible to hear it?

A. If the wind was blowing in your favor, you could sometimes hear it.

Q. Have to be a pretty strong wind, wouldn't it?

A. Yes.

Q. And if there is no wind blowing it is pretty hard to hear.

A. If blowing you ought to hear it.

Q. Hard to hear it?

A. No, you ought to hear it.

Q. How far should you hear the Duxbury whistle under ordinary conditions then?

A. Anywhere within a mile.

Q. What kind of a whistle is that?

A. Just a whistling-buoy—a whistling-buoy.

Q. That whistle is just agitated by the water?

A. Yes.

Q. I understand, Mr. Ettershank, you did not hear the Point Reyes whistle at all that day.

A. Point Reyes whistle?

Q. Yes.

A. No, I did not hear the Point Reyes whistle either.

Q. Nobody on your ship seems to have heard it. Do you know of anybody that did? A. No.

Q. Yet you know it was blowing?

A. After it cleared up I could see the steam from the whistle.

Q. You could not hear it? A. No, sir.

Q. You were six miles or more away from it at that time? A. Yes.

(Testimony of Joseph W. Ettershank.)

Q. And that was approximately the point of the collision? A. Yes.

Q. Did you think it strange that you did not hear it at six miles? A. What? Point Reyes?

Q. Yes. [464—345]

A. No. That is a pretty long way off to hear it.

Q. How far have you heard the Point Reyes whistle?

A. Well, I have passed within two miles of it and have not heard it sometimes.

Q. How far have you heard it?

A. Well, I don't know how far.

Q. You can hear the whistle ten miles, can't you?

A. You can't.

Q. How do you know? A. What?

Q. How do you know you can't?

A. You can't hear it 10 miles.

Q. Did you ever hear of a whistle being heard that far, ten miles? A. No, sir.

Q. Never heard of a whistle being heard ten miles?

A. No.

Q. How great has been the carrying sound of the loudest whistle you ever heard?

A. It is pretty hard to tell.

Q. You don't know. You have not had much experience in that line, have you?

Mr. DENMAN.—You mean in the line of measuring the distance of whistling?

Mr. McCLANAHAN.—Q. In the line of hearing whistles?

(Testimony of Joseph W. Ettershank.)

A. Sometimes you can hear three and four miles off.

Q. You are speaking of steamer's whistles now?

A. Any whistle.

Q. Any whistle. Makes no difference whether it is a steamer or siren? A. No.

Q. You know Point Reyes whistle is a siren?

A. Yes.

Q. You know what a siren is? A. Yes.

Q. It is different from a steamer whistle, is it?

A. Yes.

Q. You heard the "Selja's" whistle, though, did you, the first one, all right? A. Yes.

Q. Did it surprise you? A. Sir?

Q. Did it surprise you?

A. No. I heard it just the same as I [465—346] hear any other whistle blow.

Q. You did not change the wheel to starboard when you first heard that whistle?

A. I sung out to the captain right away.

Q. The captain came up on the bridge?

A. He came up on the bridge immediately.

Q. And changed the wheel?

A. He changed the wheel.

Q. He did that himself? A. Yes.

Q. Do you know why he did it?

A. Why he done it?

Q. Yes.

A. Yes. He thought the steamer was coming down the coast, and he thought he would clear them that way, so he starboarded the helm, and when he

(Testimony of Joseph W. Ettershank.)

seen her and saw she was not further away, then he ported the helm, my judgment is, and backed her to get clear of her.

Q. Did you hear the three whistles that the "Selja" gave?

A. Yes, she blowed three whistles after we was backing, after we blowed our three whistles.

Q. You had no difficulty in hearing those, did you?

A. No.

Q. How long was it before the collision that you heard the first whistle of the "Selja"?

A. Oh, I think about two minutes before—I guess.

Q. And you heard the second about a minute afterwards?

A. About that, because our whistle blows—we had the automatic set; it blows five second blasts in 55 seconds interval, making a blast every minute.

Q. After you had blown your whistle and hearing the "Selja's" whistle, then the "Selja" answered your first whistle?

A. I heard it again, yes.

Q. You were telling something about this place where the captain stood below the bridge as being a vantage point for hearing things. [466—347] Is it better than the bridge?

A. Well, your head is over the boats there down below there, it is shelter like, and sometimes you can hear better than you can hear on top.

Q. For what reason?

A. There is no wind whistling around you.

Q. No wind whistling around you? A. No.

(Testimony of Joseph W. Ettershank.)

Q. Is that the only reason? Answer the question, please?

A. What is that? That you hear the whistling better down there?

Q. Yes. What is the answer?

A. I tell you you can hear it better down below sometimes, you can hear the whistle down there and sometimes not on top.

Q. I asked you if the wind was the only reason, the absence of wind was the only reason that you could hear better than on the bridge? Answer the question, please? Please answer the question.

A. What is that? I have answered that once, sir, didn't I tell you—

Q. Mr. Ettershank—

Mr. DENMAN.—Let him finish. Do not interrupt the witness.

Mr. McCLANAHAN.—We are waiting for you to answer the question.

Mr. DENMAN.—Q. What were you saying?

Mr. McCLANAHAN.—Q. What did you tell me in answer to the question?

A. I say, it is sheltered down there and you can hear better.

Q. Because there was no wind there. Is there any other reason that you can hear better?

A. I don't know.

Q. Is it pretty well known, Mr. Ettershank, that you can hear sometimes better down there than on the bridge? A. Yes.

(Testimony of Joseph W. Ettershank.)

Q. The officers understand that, do they not, and know it?

A. Well, I have been down below and heard a whistle myself sometimes before they heard it on the bridge.

Q. You think that is because of the wind you get on the bridge. [467—348]

A. I don't know. May be they have got better ears. I don't know what; perhaps the captain has got better ears.

Q. Perhaps your ears are better down below than on the bridge. A. No, I won't say that.

Q. Did you have a man stationed at this vantage point below the bridge?

A. I had a man on the lookout, and a man on the bridge—no.

Q. You did not have one at this place where the captain was? A. No.

Q. That was a good place to have a man, was it not, if the captain could hear the Duxbury whistle and you on the bridge could not? That was a good place to have a man, was it not?

A. I had a man stationed where I could see him.

Q. What is that?

A. I had the men in the proper places.

Q. What time did the fog shut down thick, Mr. Ettershank?

A. What time did it shut down thick?

Q. Yes.

A. After we had got past the Red Buoy it shut in.

Q. After you passed the Red Buoy? A. Yes.

(Testimony of Joseph W. Ettershank.)

Q. And it was thick up to the time of the collision, was it? A. Yes, sir.

Q. How far could you see—about two ship-lengths? A. Well, around that.

Q. At the time of the collision—about two ship-lengths at the time of the collision?

A. About that, yes.

Q. You feel quite clear that this first whistle of the "Selja" was heard on the starboard bow, do you?

A. Yes, on the starboard bow.

Q. About one point? A. Yes, sir.

Q. And after your head had swung half a point to port the bearing. [468—349] was still on the starboard bow? A. Around that.

Q. What did that indicate to your mind, Mr. Ettershank, with reference to the "Selja,"—that she was moving? A. Yes.

Q. That she was going ahead? A. Yes.

Q. As a matter of fact she was not? A. No.

Q. Did you see the "Selja" before she whistled three times? A. Did I see her?

Q. Yes. A. Yes.

Q. Before she whistled three times? A. Yes.

Q. But you did not see her until after you heard her second fog-whistle?

A. We seen her after we heard the second fog-whistle, yes.

Q. And it was then that you heard her whistle, after you had seen her?

A. After we had seen her—after we went astern and we blew our three whistles, she answered it.

(Testimony of Joseph W. Ettershank.)

Q. Did she blow three whistles as soon as you saw her? A. No.

Q. How long was it, two or three minutes between?

A. Oh, a matter of a few minutes after, yes.

Q. Two or three minutes after? It was not that long, was it?

A. No. I don't know what time it was, because I was not watching that, I did not time that.

Q. Was it a matter of seconds between seeing her and seeing her blowing three whistles?

A. Well, it was around a minute, I guess or so after we blew our three whistles.

Q. That is around a minute after the "Beaver" had blown the three whistles the "Selja" blew three whistles?

A. She answered our three whistles, yes.

Q. When you first saw the "Selja" she was in the trough of the [400—350] sea, you say?

A. Yes.

Q. And you were coming right to her beam?

A. Yes; she was on our starboard bow.

Q. Then if that swell was a westerly swell, she was lying in the trough of the swell and you were approaching her on your south 82 west magnetic course at right angles; is that right?

A. We was steering north 86 west.

Q. That is near right angles, is it not? A. Yes.

Q. Did the "Selja" swing any before you struck her? A. I don't know.

Q. Have you got a good memory, Mr. Ettershank?

A. Sure—I have a pretty good memory.

(Testimony of Joseph W. Ettershank.)

Q. You say sure?

A. A pretty good memory; not very.

Q. Was there anything significant in this conversation that you heard on the bridge between Captain Lie and Captain Kidston? A. Anything what?

Q. Significant. Important? A. Yes.

Q. What was it that was important.

A. He said he had been stopped still for 10 minutes.

Q. That was important, was it?

A. Sure it was.

Q. Anything else in it that was important?

A. He had heard our whistle for 15 minutes before.

Q. Before what? A. Before we hit him.

Q. That was important, was it, in your mind?

A. Yes.

Q. Anything else important?

A. He said that he was stopped still and he was taking soundings.

Q. So practically all of that conversation that you heard was important, Mr. Ettershank?

A. Yes, sir.

Q. In your mind? A. Yes, sir. [470—351]

Q. What was the importance which you attached to the statement of Captain Lie that he had been stopped still for 10 minutes?

A. If he had stopped still, he was blowing his fog whistle for under way, and he ought to have blown two whistles.

Q. He ought to have blown two whistles?

A. Yes.

(Testimony of Joseph W. Ettershank.)

Q. Did you hear Captain Kidston ask him why he didn't blow two whistles?

A. I don't remember whether I did or not; I would not swear.

Q. Did you ask Captain Lie why he did not blow two whistles?

A. No, I never spoke to the captain. The captain was talking to my captain, I did not speak to him.

Q. Did Captain Kidston ever after that conversation talk with you about his failure to blow two whistles? A. Yes.

Q. When was that?

A. That was after the collision.

Q. Whereabouts?

A. San Francisco—no, I don't remember now where it was; we was talking over it any way.

Q. After you got ashore?

A. I don't remember where it was.

Q. You don't remember when it was?

A. Well, it was after the collision we was talking about it.

Q. After you got ashore? A. Yes.

Q. You don't remember the time? A. No.

Q. And he told you that Lie should have blown two whistles?

A. I do not know whether he said it or I said it. I think the captain said, "you did not hear no two whistles" or if there was two whistles and I said no, it was not.

Q. The captain heard but one of the "Selja's" whistles? A. Yes.

(Testimony of Joseph W. Ettershank.)

Q. That is after he had reached the bridge?

A. After he had reached the bridge, yes [471—352]

Q. Do you know why he stopped and reversed his engines at that time? A. Why he done it?

Q. Yes.

A. To get clear of him, go around his quarter.

Q. Why was it necessary to get clear of him?

A. On account of the headway on him, he was crossing our bow.

Q. Wasn't he a long ways off? A. What?

Q. Wasn't he a long ways off? What was the necessity for stopping and reversing your engines? The whistle told you you were right on top of him, didn't it. A. We was pretty near, yes.

Q. The "Selja's" whistle told you you were pretty near him; is that right? A. Yes.

Q. And that was the reason for stopping and reversing and trying to avoid the collision? Answer the question. A. Yes.

Q. You say you have got a good memory. Now, I wish that you would give me this conversation in the words that you remember of it, the conversation between Captain Kidston and Captain Lie on the bridge.

A. Well, Captain Lie came on the bridge.

Q. Who spoke first? A. Our captain did.

Q. What did he say? A. Well—

Q. Can you remember his exact words?

A. Well, I did not listen to it all.

Q. I am talking about the words he used that you

(Testimony of Joseph W. Ettershank.)

remember of hearing. Can you remember them?

A. Well, he said, "Captain, you have got dry clothes on" and Captain Lie says, "yes."

Q. Those are the words that he used?

A. I won't say they are the exact words, word for word, but they amounted to like that.

Q. Well, what else?

A. And he says, "I am all right—I have got dry clothes on, I am all right." Captain Kidston says, "I am [472—353] sorry," he said, "I sunk your ship."

Q. Are you sure he said, "Sunk your ship"?

A. Our captain?

Q. Those are the words he used—those words.

A. Well, I wouldn't say—he might have said "sank your ship."

Q. Are you sure he either said "sunk" or "sank your ship"?

A. I am pretty sure that it was like that, or something to that effect, I don't know exactly.

Q. Didn't he say "I am sorry I put you out of command"? A. He might have said that.

Q. He might have said that. A. Yes.

Q. What was the next thing that happened in the conversation?

A. He said he had been stopped still there for ten minutes taking soundings.

Q. Did he say "stopped still"?

A. Stopped still, yes.

Q. Or at a standstill? A. At a standstill.

Q. At a standstill; that was the words, was it not?

(Testimony of Joseph W. Ettershank.)

A. Yes.

Q. This statement that he had been at a standstill for 10 minutes was not in answer to any question from Captain Kidston but was volunteered by Captain Lie, was it? A. He was telling him, yes.

Q. Not in answer to any question from Captain Kidston; he just volunteered the statement, "I was at a standstill for 10 minutes taking soundings"?

A. Captain Kidston says, I think—let me see—he says, "I have been stopped still for 10 minutes," he says—

Q. At a standstill.

A. At a standstill for 10 minutes taking soundings. And he says, "I knew it was either the 'Bear' or 'Beaver,' because I heard the whistle for 15 minutes."

Q. I understand that. Mr. Ettershank, I want to know whether that was a voluntary statement on the part of Captain Lie, or was it [473—354] in answer to some question that Captain Kidston had put to him?

A. Captain Kidston asked him if he heard the Point Reyes whistle or something like that, if I remember right.

Q. Captain Kidston asked Lie if he had heard Point Reyes whistle. A. Yes.

Q. And what did Lie say to that?

A. Well, I don't remember.

Q. Did Lie make answer to it that you heard?

A. I don't remember.

(Testimony of Joseph W. Ettershank.)

Q. You don't know whether he answered that or not? A. No.

Q. Was it then that Captain Lie said, "I was at a standstill for 10 minutes taking soundings"?

A. Yes.

Q. After the question from Captain Kidston as to hearing Point Reyes whistle; is that correct?

A. Yes.

Q. Did you note the time of the collision?

A. Yes.

Q. What time was it? A. 3:16 when we hit.

Q. 3:16? A. 3:16.

Q. You looked at your watch?

A. I had the watch, pulled it right out of my pocket.

Q. Did Captain Kidston know the time of the collision? A. I sung out 3:16, sir.

Q. So he knew from you the time of the collision?

A. Yes. I don't know whether he looked at his own watch or not, I could not tell you that.

Q. What is that?

A. I don't know whether he looked at his own watch or not.

Q. Did anybody else on the bridge know the time of the collision besides you and Captain Kidston?

A. There was one quartermaster.

Q. Did the third officer know?

A. He was not there; it was his watch below.

Q. Did the quartermaster?

A. I don't know whether he heard me say [474—355] it or not, I could not tell you that.

(Testimony of Joseph W. Ettershank.)

Q. What is the object of having a quartermaster on the bridge?

A. What do we have him up there for?

Q. Yes.

A. To keep a lookout and watch for whistles.

Q. Do you have them there when you have two officers on the bridge?

A. Two officers on the bridge?

Q. Yes.

A. We had the quartermaster up there when the captain and myself was up there on the bridge in the foggy weather that day.

Q. What for? A. To keep a lookout.

Q. To keep a lookout?

A. Listen for whistles and look out.

Q. Where did you station them?

A. Off on the bridge and one in the wings.

Q. And where did you stand, the other wing?

A. Walked across the bridge or in the other—I walked across on both sides watching the compass and that.

Q. Your idea is that three men can hear better than one, is that it?

A. I guess it is; what one don't hear the other might.

Q. You don't have two men at the bow, one at port and starboard? A. No, sir.

Q. Just put the extra man on the bridge?

A. Yes.

Q. When was this quartermaster put on this bridge this day, November 22d?

(Testimony of Joseph W. Ettershank.)

A. When was he put there?

Q. Yes.

A. He was from the time he came from the wheel at 2 o'clock, when he came on the bridge.

Q. So he was on the bridge from 2 o'clock on?

A. Yes, with the exception of he went down to the engine-room for the orders and to read the log for Duxbury Reef.

Q. As a matter of fact he does errands for the captain?

A. He is a messenger when he is out from steering the ship. [475—356]

Q. But he is always on the bridge when there is fog?

A. In foggy weather, yes, he is, and at night-time, when it is dark.

Q. Does he do any messenger work when it is foggy?

A. Have to send him to read the log, yes.

Q. Then he never leaves the bridge when the captain is off the bridge, leaving one man on the bridge in a fog, does he?

A. Yes, the quartermaster goes aft to read the log and the captain might step off the bridge, you know.

Q. That happens sometimes, does it?

A. He might step right down below, you know.

Q. Mr. Ettershank, I believe you said that the "Beaver" under the port helm was swinging rapidly to starboard before the collision, Is that right?

A. She started to swing, yes, before we hit.

Q. Fast?

(Testimony of Joseph W. Ettershank.)

A. Yes. She was going. The helm was hard-a-port, because we have a tell-tale on the bridge, and I could see it.

Q. She was swinging rapidly then? A. Yes.

Q. Now, you also said that the "Selja" had no way on her. A. I could not see any.

Q. How could you see whether she had any way on if you were swinging to starboard rapidly? If she had way you could not tell it, could you?

A. You could see her wake from the wheel working, wouldn't you?

Q. I am asking you the question. You could not tell it if you were swinging rapidly to starboard?

A. Could not tell it?

Q. Yes. Answer it.

A. You can't tell whether she had way on her or not while she was swinging fast, but it looked as though she had way—as though she did; you might think she had. [476—357]

Q. You think the "Selja" had way on her?

A. No, I ain't saying that. I say anybody might think it.

Q. But you think she did not have any way on?

A. No, sir.

Q. What made you think that?

A. Because she was laying in the trough of the sea.

Q. Lying where? A. In the trough of the sea.

Q. Couldn't she have way on her in the trough of the sea?

(Testimony of Joseph W. Ettershank.)

A. She could, yes, but then if he had been at a standstill—

Q. (Intg.) —for 10 minutes—

A. (Contg.) For ten minutes, the ship, at a standstill, would naturally swing in the trough of the sea.

Q. So that your statement that she had no way on her is influenced somewhat by the captain's statement that she was at a standstill for ten minutes, isn't it? A. Yes.

Q. Did you ever make a written statement, sign a written statement of what you knew of the facts in this case? A. Of the testimony, like?

Q. Of the facts, I did not say testimony. Of the facts. Did you ever sign a written statement of the facts? A. You mean of the story—

Q. Of the story. A. Of the collision?

Q. Yes. A. Yes.

Q. Have you got a copy of it? A. Yes.

Q. Produce it, please.

A. Mr. Denman has got that. I don't know if I have got it or not. I don't know whether I have it with me or not. (Producing.)

Q. When was this statement made up?

A. Before Christmas, when I was up in Mr. Denman's office here.

Q. Were you up here alone? A. No, sir.

[477—358]

Q. Who was with you?

A. The captain and the quartermaster and them.

Q. The third officer?

A. No, he was not with me that day.

(Testimony of Joseph W. Ettershank.)

Q. Who prepared the statement?

A. Who prepared it?

Q. Yes.

A. Well, I just told the facts and it was taken down.

Q. It was taken down in shorthand? A. Yes.

Q. And then afterwards typewritten? A. Yes.

Q. And then you were called up again and signed it? A. Yes.

Q. Did you read it? A. Yes.

Q. And then sign it? A. Yes.

Q. Did the others sign a similar statement, the other officers and the crew?

A. I did not see them, I believe they were al asked, they were all called to sign.

Q. You have got a copy of this statement, have you? A. Yes.

Q. Let me see it, please. A. There it is.

Mr. McCLANAHAN.—I will introduce this in evidence and ask to have it marked.

(The paper is marked Libelant's Exhibit 14.)

Q. This paper has been in your possession ever since it was handed to you in December last?

A. I had it, yes.

Q. It has been in your possession, I say?

A. Yes; since the time in was handed to me.

Q. And that was in December last?

A. No, it was after that I got it.

Q. After that you got it. How long after?

A. Oh, I don't remember.

Q. Did this conversation form a part of your state-

(Testimony of Joseph W. Ettershank.)

ment when you were examined in Mr. Denman's office in December?

A. What is that—this statement?

Q. Did this conversation that you heard on the bridge between [478—359] Captain Lie and Captain Kidston form a part of the statement which was given by you in Mr. Denman's office in December? Do you understand that question?

A. You ask me—

Q. Do you understand the question?

A. Yes, I understand what you mean.

Q. Well, answer the question. A. Yes.

Q. Is it "yes"? A. Yes.

Q And that was the statement which was taken down by a stenographer?

A. That was taken down by the stenographer, yes.

Q. Let us get this perfectly clear; in December in Mr. Denman's office you made a statement of facts?

A. Regarding the collision.

Q. Concerning the collision. A. Yes.

Q. And in that statement of facts you recited this conversation which you heard between Captain Lie and Captain Kidston on the bridge of the "Beaver" and all that version was taken down by a shorthand reporter in this office? Is that correct?

Mr. DENMAN.—Q. Do you read shorthand?

Mr. McCLANAHAN.—I object to counsel interrupting the witness.

Q. Will you answer that question?

A. We talked it over, yes. He asked me what I heard and I told him what I heard.

(Testimony of Joseph W. Ettershank.)

Q. Will you read the question to the witness, Mr. Reporter?

(The last question repeated by the Reporter.)

Q. I will ask you, Mr. Witness, to answer the question yes or no.

Mr. DENMAN.—I object to the question on the ground that the man has not been shown to be an expert at handwriting and cannot tell what the stenographer took down.

A. I suppose they took it down. They asked me questions and I suppose they took it all down. I don't know, I can't reat that. [479—360]

Mr. McCLANAHAN.—Q. Now, Mr. Ettershank—I see you got the cue—this conversation on the bridge about Captain Lie's lying at a standstill for 10 minutes was known to be important at this conference that you had, this meeting, was it not, it was recognized as something important?

A. Important, sure.

Q. Sure it was important. And the men who were at that conference in this office all stated that version, did they not, and it was taken down by a shorthand reporter?

Mr. DENMAN.—There is nothing in the evidence to show that.

Mr. McCLANAHAN.—I am asking that question.

The WITNESS.—What is that, Mr. Denman?

Mr. DENMAN.—Never mind that. That was for the record, that is all.

Mr. McCLANAHAN.—Read the question, Mr. Reporter.

(Testimony of Joseph W. Ettershank.)

(The question repeated by the Reporter.)

Q. I will add to that question, all the men who heard the conversation made the statement of it here in this office and it was taken down by a shorthand reporter. Is that right?

A. I guess he must have wrote it down after I said it.

Q. You do not quite understand my question. I say all the men who were in this office who heard the conversation on the bridge made a statement of it, and it was taken down in shorthand; is that correct? A. It was taken down.

Q. And they made the statement?

Mr. DENMAN.—Who do you mean by "they"?

Mr. McCLANAHAN.—The men who heard the conversation. Don't you understand my question?

Mr. DENMAN.—I want to get it clear to the witness.

ness. He is trying to find out what was said by the men who were here [480—361] and who heard the conversation, Mr. Ettershank. You have not shown that the men were here.

Mr. McCLANAHAN.—Q. Do you understand the question?

Mr. DENMAN.—Q. I object to the question on the ground it is not shown that the men who heard the conversation were here.

Mr. McCLANAHAN.—Q. Captain Kidston was here?

A. Mr. Denman was here.

Q. Captain Kidston? A. Yes.

(Testimony of Joseph W. Ettershank.)

Q. And you were here? A. Yes.

Q. And the quartermaster was here?

A. I think they were out in the anteroom.

Q. The quartermaster was here at the conference in December in this office?

Mr. DENMAN.—You mean in this room or in the anteroom?

Mr. McCLANAHAN.—Q. I don't know where he means.

A. I don't remember—in here, I guess, they was.

Mr. McCLANAHAN.—Read my last question that was interrupted.

(The last question repeated by the Reporter.)

Q. Did the men who heard the conversation between Captain Kidston and Lie on the bridge make a statement of that conversation that was taken down by a shorthand reporter? Can't you answer that yes or no?

A. There was only Captain Kidston, Mr. Denman and myself and a stenographer at the time we were talking, I think.

Q. If that was all that were here, did Captain Kidston make that statement of that conversation and was it taken down in shorthand?

Mr. DENMAN.—Q. In your presence? A. No.

Mr. McCLANAHAN.—Q. He did not?

A. He just listened to what I had to say; that was my statement, I was talking. [481—362]

Q. Did not Captain Kidston make a statement also? A. He said he had heard it, yes.

Q. He heard what?

(Testimony of Joseph W. Ettershank.)

A. That he heard what Captain Lie said.

Q. And was this statement of his taken down in shorthand? A. Was his statement taken down?

Q. Yes. A. I guess it must have been, yes.

Q. Yours and his were both taken down in shorthand? A. Yes.

Q. Who was this stenographer, a man or a woman?

A. A lady.

Q. Would you recognize the lady if you saw her now? A. Yes.

Q. Is that the lady? (Pointing to a young lady in the outer office.) A. Yes.

Q. This exhibit, which purports to be your copy of your statement is a copy of the statement which you did sign? A. Yes.

Mr. McCLANAHAN.—Will you please produce the original, Mr. Denman?

Mr. DENMAN.—There it is.

The WITNESS.—Are you going to keep that?

Mr. McCLANAHAN.—It is introduced in evidence.

Q. But the time of signing this, Mr. Ettershank, you do not remember? A. No, sir.

Mr. McCLANAHAN.—I offer this original in evidence also.

(The paper is marked Libelant's Exhibit 15.)

Q. After the statement was prepared, or rather, before the statement was prepared, did you have a talk with Captain Kidston about the collision?

A. Oh, yes, we had a talk two or three different times.

(Testimony of Joseph W. Ettershank.)

Q. Before you came to this office did you have a talk with him?

A. Yes. I talked with Mr. Denman, too, I think.

Q. And after you came to this office you still have conversations [482—363] with Captain Kidston about the collision? A. Yes.

Q. Of course there is nothing wrong in that.

A. No. We can talk the same as anybody I meet on the street, I talk to.

Q. And this conversation between Kidston and Lie on the bridge was the subject of the conversations with Captain Kidston, was it not?

A. Why, we talked about different things.

Q. But that was one thing you talked about, was it not? A. We talked that over in here.

Q. And you talked it over out of here, did you not?

A. Out of the office?

Q. Yes.

A. Yes, we talked about it out of the office too.

Q. You are still in the employ of the San Francisco and Portland Steamship Company? A. Yes, sir.

Q. Who is her master now? A. Captain Nelson.

Q. When did he take command?

A. After we came from drydock.

Mr. HENGSTLER.—You mean he is master of the "Beaver"?

Mr. McCLANAHAN.—Yes.

Q. You are on the "Beaver" still? A. Yes.

Q. Captain Nelson took command after she come from the drydock after the collision? A. Yes, sir.

(Testimony of Joseph W. Ettershank.)

Q. He took the "Beaver" up north the next trip then?

A. Yes, the first trip after the collision.

Redirect Examination.

Mr. DENMAN.—Q. Mr. Ettershank, have you ever been in a law court before? A. No, sir.

Q. Does it embarrass you to go through this kind of an examination?

Mr. McCLANAHAN.—I object to that as immaterial. The embarrassment is shown in the record. [483—364]

Mr. DENMAN.—Well, if you admit the embarrassment has been shown in the record, I am perfectly willing. I want to get from the witness himself his own state of mind.

A. Well, you laughed at me a couple of times.

Mr. McCLANAHAN.—Q. You are talking to the stenographer now. A. Yes, he laughed at me.

Mr. DENMAN.—Q. Anybody else laugh at you?

A. You all laughed at me, I guess.

Q. Do you know how many revolutions, as a matter of fact, the engine was running in the engine-room? Do you know yourself how many revolutions she was running? A. Before?

Q. At any time, do you know what revolutions she made?

A. No, because we had not got the returns, you see. We get the returns at the end of each watch and put it down in the log-book.

Q. Now, you have a working chart that shows the coast in a more extensive scale than this one here?

(Testimony of Joseph W. Ettershank.)

A. Yes.

Q. Is that the chart on which you make up your courses? A. Yes.

Q. Now, let me ask you, where is the toilet that the captain goes to, with reference to the bridge? How far is it from the bridge?

A. Oh, about the length of this room, a little ways from the bridge—two rooms from the bridge—you know how big a bunk is—

Q. Is it about 50 feet?

A. It is not that far. Let me see. One, two, three. I guess it is about 20 feet, I guess; it can't be any more. There is three staterooms, and each one is supposed to have a bunk 6 feet.

Q. That would make it around that?

A. Somewhere around that.

Q. This statement that you put in, is that a correct statement of the facts?

A. That is correct. [484—365]

Q. Do you remember whether or not the captain's statement was taken at the same time as yours or on another day?

A. The captain's statement, I guess, was taken before mine, wasn't it?

Q. Well, do you remember whether it was taken while you were here? A. Taken while I was here?

Q. Do you remember whether it was taken while you were in here or at another time?

A. No, I don't remember.

Q. Do you know anything of your own knowledge of what the stenographer took down?

(Testimony of Joseph W. Ettershank.)

A. My statement?

Q. Do you know what she took down, whether she took down the whole of it or a part of it? Do you know anything about it yourself? Do you know anything about stenography? A. No.

Q. Do you know what she took down, as a matter of fact?

A. I don't know what she took down, no—I don't know what she took down in the book.

Q. This statement was prepared after you had the conversation here? A. Yes.

Q. It was sent to you, you read it over and signed it, and it was taken back; is that correct?

A. Yes, sir.

Q. Now, do you know whether, as a matter of fact, Captain Kidston ever made a written statement?

A. I don't know, no, whether he did or not.

Q. Did you ever see him sign it?

A. No, I never seen him sign no statement.

(An adjournment was here taken until Friday, June 30, 1911, at 9:30 A. M.) [485—366]

Friday, June 30, 1911.

[Testimony of John Albrethsen, for Respondent.]

JOHN ALBRETHSEN, called for the respondent, sworn.

Mr. DENMAN.—Q. Mr. Albrethsen, how long have you been at sea?

A. Well, I started to sea when I was 15 years of age; I am about 40 now.

Q. On this coast? A. No, sir.

Q. How long have you been on this coast?

(Testimony of John Albrethsen.)

A. On this coast for four years.

Q. Were you on the steamer "Beaver" at the time she collided with the "Selja"? A. Yes, sir.

Q. Quartermaster on her?

A. I was quartermaster.

Q. How long had you been a quartermaster on her?

A. At that time I had been on her six months. I think about six months—five or six months.

Q. Were you on watch at the time of the collision?

A. Yes, I was on watch.

Q. Whereabouts were you at 3 o'clock on that day?

A. At 3 o'clock I was on the bridge, on the port side of the bridge.

Q. On the port side of the bridge? A. Yes, sir.

Q. Did you hear any whistle from the "Selja"?

A. Yes, I heard a whistle all right.

Q. What whistle did you hear?

A. I heard one whistle.

Q. Whereabouts?

A. On the starboard bow—about one point on the starboard bow.

Q. What did you do when you heard the whistle?

A. I reported to the second officer.

Q. Was the second officer on the bridge at that time?

A. Yes, sir, he was on the bridge. [486—367]

Q. What did he do?

A. He went right over immediately and he told the captain; the captain was just down on the deck at that time, and he told the captain about it.

Q. What did the captain do?

(Testimony of John Albrethsen.)

A. He went right up on the bridge, right away.

Q. What happened then? Did the captain give any orders?

A. Oh, well, he blowed our whistle, and he listened to get another whistle from the "Selja."

Q. Was any change made, any order given, when you heard the first whistle?

A. Well, sir, that is a thing I could not know, because I was on the lookout, you know, I was on the side of the bridge, and I don't know.

Q. Then you blew a whistle and then you heard another whistle from the "Selja"?

A. Yes, I heard two whistles.

Q. What is that?

A. I heard first one and then afterward I heard another whistle.

Q. How far apart were they, about how far apart?

A. Well, I could not tell anything about that.

Q. Well, was it half a minute or a minute or a minute and a half between whistles?

A. About a minute—well, I won't say that, you see, because—

Q. You mean about a minute?

A. Yes, about a minute.

Q. What happened then on your vessel?

A. When we heard the last whistle?

Q. Yes.

A. When we heard the last whistle, he got three whistles from us and we went full speed astern.

Q. How could you tell she was going astern?

A. I could see it on the telegraph.

(Testimony of John Albrethsen.)

Q. From the telegraph?

A. That is the only thing I could see it by. [487—368]

Q. Could you feel anything as she went astern?

A. I could feel, she was shaken a little bit.

Q. What happened then? Where were you at this time?

A. I was on the bridge at this time, but as soon as they put full speed astern they told me to go aft and haul in the log.

Q. Did you go aft and haul in the log?

A. Yes, I did.

Q. Had you seen the "Selja" before you left the bridge? A. No, I had not.

Q. Did you haul in the log? A. Yes, sir.

Q. Did you read it? A. Yes, sir.

Q. What did she read? A. 19.6.

Q. Did you report that?

A. I reported it to the second officer on the bridge.

Q. You reported it to the second officer on the bridge? A. Yes.

Q. Did you see the "Selja" when you came back?

A. When I came back on the bridge, yes, I saw her.

Q. Had the collision occurred then?

A. Yes, sir.

Q. The collision had occurred then?

A. Yes, sir.

Mr. DENMAN.—That is all.

Mr. McCLANAHAN.—No cross-examination. [488—369]

[Testimony of Frederick Amor, for Respondent.]

FREDERICK AMOR, called for the respondent, sworn.

Mr. DENMAN.—Q. Mr. Amor, how long have you been at sea? A. I went to sea in 1873.

Q. Been to sea ever since? A. Yes, sir.

Q. On this coast?

A. Well, I have been about 16 or 17 years out here, on the Australian coast, and the rest out of my home port, that is all.

Q. Were you on the "Beaver" on the day she ran into the "Selja"?

A. Yes. I was on the lookout, sir.

Q. You were on the lookout? A. Yes, sir.

Q. How long had you been on the lookout prior to the collision?

A. Well, I went on the lookout at four bells, 2 o'clock, sir.

Q. 2 o'clock? A. Yes, sir.

Q. And what was the condition of the weather at that time?

A. Well, it was foggy, sir; and sometimes you could see a considerable distance, it would lift up once in a while.

Q. What was the condition of the sea?

A. Well, sir, we had a westerly swell; there was a regular lot of deadhead; it had been blowing before, but there was not much wind then, a little breeze, four or five knot breeze, something like that.

Q. Was the swell a light swell or a heavy swell?

A. Well, it was a big lump of a swell, sir.

(Testimony of Frederick Amor.)

Q. Did you hear any whistles from the "Selja"?

A. Yes, sir.

Q. What was the first whistle that you heard from the "Selja"?

A. The first whistle, sir, was a little on our starboard bow.

Q. What was it? A. One whistle.

Q. What did you do?

A. I reported to the bridge, sir.

Q. What was the next whistle that you heard?

A. I heard the [489—370] same whistle, you know, one whistle, again.

Q. What happened then on your ship?

A. Well, we, what I call feel off, we then stopped the ship and then commenced to vibrate, and I thought she was going full speed astern; that is the way it felt to me, sir.

Q. When did you see the "Selja"?

A. Just after I heard his whistle, it might have been half a minute or it might have been more, and it might have been less, I could not tell you.

Q. Did you see the "Selja" after or before you felt the vibrations on your own ship?

A. I saw the "Selja"—our ship commenced to vibrate after I heard the first whistle, showing our ship was going astern, and we was going astern fast when I saw the vessel; I seen her looming up in the fog.

Q. Now, then, you finally ran into her?

A. Yes.

Q. Whereabouts did you strike her?

(Testimony of Frederick Amor.)

A. Well, somewhere abaft of her forerigging, somewhere around there, I did not take particular notice, but that is where it was, around the forerigging, somewhere just abaft.

Q. Where was she lying when you first saw her, whereabouts, with reference to the sea?

A. She was laying in the trough of the sea; we was coming head on to it.

Q. And at what angle would that be to your ship?

A. Well, she was like that and we come about like that. (Illustrating.)

Q. At right angles to you?

A. I don't know whether you would call it right angles.

Q. Was she square on?

A. Yes, right square on; her nose was coming towards our bow like that. (Illustrating.)

Q. Would you say she was crossing your bow then?

A. That is what she would have done if she had had any way; I guess she did [490—371] not have any way at all.

Q. Could you tell whether she had any way on at all?

A. It didn't look like it. Maybe if she had any way we would have cleared the ship all right; we was swinging to starboard, we got our helm hard-a-port.

Q. When you hit her what angle did you hit her at?

A. Well, she was laying straight across our bow, lying straight across; we struck her right broadside on, you might call it.

Q. Do you mean hit her squarely or an angle?

(Testimony of Frederick Amor.)

A. We hit her square on, sir.

Q. How was the "Selja" pointing at the time you hit her? A. She was heading offshore, sir.

Q. I mean with reference to the ocean. When you saw her first she was lying in the trough of the sea?

A. Yes.

Q. How was she heading when you finally hit her?

A. Well, she was hardly in the trough,—I don't know, she looked to me she was kind of slewing.

Q. That is to say her bow had turned into the sea?

A. Her bow was turning to starboard; that is the way she seemed to me to be.

Mr. DENMAN.—That is all.

Cross-examination.

Mr. McCLANAHAN.—Q. Your steamer blew three whistles, did it not?

A. Yes, she blew three whistles, sir.

Q. And it was at that time that you felt the ship vibrate?

A. Yes, sir; that is the time when I felt her commence to go astern.

Q. Just as she blew three whistles?

A. Well, yes, about that time. I was looking out to see how I was going to get off the forecastle the time she hit, and there is a lot to get in your memory, sir. [491—372]

Q. And it was just about that time that the "Selja" blew three whistles, was it not?

A. He blew a little after.

Q. After you had blown?

A. Yes. It was a half minute, I guess, before he

(Testimony of Frederick Amor.)

answered our whistle.

Q. Now when you first saw the "Selja" where were you standing?

A. I was right forward on the forecastle head, right forward, sir.

Q. Well, whereabouts?

A. Right forward, in the nose of her, sir.

Q. Was that where you were standing when you heard her first whistle?

A. That is where you can hear best; she has got a breastplate there, and you don't hear any motion of the water there, when you are right forward; that is the best place to listen.

Q. That is where you were standing when you heard the first whistle?

A. Yes, that is where I was standing when I heard the first whistle.

Q. Did you report the first whistle from that point?

A. I did, sir, right to the bridge.

Q. Without going aft?

A. Yes, and the second mate answered me—it was the second mate; yes, the second mate was on the bridge.

Q. What did you report with, a megaphone?

A. No. It is only 80 or 90 feet away and they could hear me plainly.

Q. What did you say?

A. I sung out "whistle a little on our starboard bow," sir.

Q. Did you get any answer? A. Yes, sir.

Q. What was the answer? A. All right.

(Testimony of Frederick Amor.)

Q. When you got the second whistle, did you report that? A. I sung out again, yes.

Q. Then it was after that that you saw the ship? [492—373]

A. After that I saw the ship, sir, yes.

Q. When you saw the ship you left the bow, didn't you?

A. Well, I stood back a little. I was thinking about how to go aft, I was not going to stand there.

Q. Didn't you turn around and start aft?

A. Well, I started to go aft just about the time we was going to strike.

Q. When she struck you felt the blow, didn't you?

A. Sure, yes.

Q. Did it knock you down? A. No, it did not.

Q. How far off were you from the stem?

A. I was about 30 feet back, just about our capstan, I got hold of one of the guys of the boom; that is what I held on to with my hand.

Q. So that when you saw the "Selja" first you knew there was going to be a collision?

A. I had an idea.

Q. You were in a dangerous position on the forecastle?

A. Yes, and I am going to look out for myself, too.

Q. And you turned around and got about 30 feet off before the blow?

A. Yes, sir, after I seen her. But I seen her some time before I commenced to go aft, but when I seen she was getting close to colliding, then I commenced to go aft. I did not go aft until after some time;

(Testimony of Frederick Amor.)

we seen the ship, we was close on top of her, I watched her until we get close to her and then I started to go aft.

Q. How long did you watch her?

A. I guess that was a minute or so before we came close, collided with her.

Q. But you watched there until you saw that the "Selja's" head was swinging to starboard?

A. Yes, sure; I watched until we was close on top of the ship before I shifted my position.

Q. Do you know what that meant, the swinging of the "Selja's" head to starboard?

A. No, I could not tell you that, sir, at all. [493—374]

Q. Not as a seaman, you could not tell?

A. Well, I could not tell you, I don't know. That swinging, I guess, it might have been from his engines being put astern—I could not tell you, though, sir.

Q. Don't you know that if the engines of the "Selja" had been put astern she would swing to starboard?

A. Well, I have got an idea it might have done that, but I could not tell you; I ain't no navigator, and I have driven no engines in my life. I have worked with the wheel and that is all I have done in my life.

Q. Is your hearing good?

A. Yes, I can hear as good as anybody.

Q. Never had any trouble with your hearing?

A. No, I never had any trouble with my hearing.

(Testimony of Frederick Amor.)

Q. Did you hear the Point Reyes siren blowing?

A. I could not swear that I did hear it, no.

Q. Do you remember that you were on watch when you passed Duxbury Buoy?

A. Duxbury Buoy? I don't know whether I was on the lookout or not, because I don't know what time we passed there. I went on watch at four bells, 2 o'clock.

Q. Then you passed it? A. Yes.

Q. If you passed it at 2:15, you were on watch?

A. Yes, if we passed it at 2:15 I was on the lookout.

Q. Did you hear the buoy?

A. I never heard the buoy. But we passed a couple of fishing boats, these here trawlers, these big trawlers; we passed two or three of them, and they was blowing whistles.

Q. Steamboats, were they?

A. Yes, these steam trawlers.

Q. Where did you pass the first one—before or after you passed Duxbury Buoy?

A. I could not tell you whether it [494—375] was before or after we passed Duxbury; we might have been around there at that time, we might have been in that locality, and the wind might have taken that away from me on the forecastle head.

Q. Where did you first hear a whistle?

A. Which one?

Q. From one of these fishing steamers?

A. It was in the fog. I could not tell where it was. It was while I was on the lookout.

(Testimony of Frederick Amor.)

Q. You don't know what side it was on?

A. I knew the side it was on, sure. It was on the starboard side; we passed both of them on the starboard side.

Q. You passed both of them on the starboard side?

A. Yes.

Q. And these are the only two boats you passed?

A. That is all while I was there till we fell across that "Selja."

Q. How long a time separated the passing of those two fishing boats?

A. Oh, it was some time before we fell across the "Selja." A man never keeps a line on anything like that.

Q. That is not what I mean, Mr. Amor. You heard a whistle from a fishing steamer?

A. Yes, sir.

Q. Then later on you heard another whistle from another fishing steamer? A. Yes, sir.

Q. How long was it between the whistles?

A. They were pretty close together. They had left the fishing grounds and were bound in; those boats always sail in pretty close together.

Q. Of course you did not see them?

A. You could just see them—we could see them. It was not a dense thick fog all the time; sometimes the fog would lift up a little.

Q. Are you sure now you could see them?

A. They were close to us too, not far off.

Q. Are you sure you saw them?

A. I saw them, sure. I could tell that they was

(Testimony of Frederick Amor.)

fishing boats, they was right close to us; the fog [495—376] would lift sometimes and you could see —sometimes on the water-line we could see three or four miles; it was not a dense thick fog all the time.

Q. Did you take any notice of the "Selja" when you first saw her to see whether she had any way on her or not?

A. Well, I could see the vessel did not have no way on her, any man could see that vessel did not have no way on her, or we would have cleared the ship.

Q. Answer the question, did you take notice of her?

A. Well, it looked to me that she had no way on her.

Q. Answer the question, did you notice, did you look to see? That is what I am saying, did you look to see? A. Of course, I looked at the ship.

Q. Don't you remember testifying before the Inspectors in this case in November last?

A. Yes, sure I remember.

Q. Don't you remember stating that you did not take notice of whether she had any way on her?

Mr. DENMAN.—Particular notice, was it not?

Mr. McCLANAHAN.—No, take any notice.

Q. Let me read you your testimony so as to refresh your memory. The Inspector asked you this question: "Did she seem to have any way on her?" and you said, "I could not tell, sir." Then he asked you "You saw the waterline before you came together. Do you know whether she was making any water on the bow?" Your answer was, "No, I could not say,

(Testimony of Frederick Amor.)

sir."— A. Well—

Q. Wait a minute. "In fact I did not take any notice." Which is correct?

A. Well, I tell you what I think is correct, sir. I say that ship did not have any way. [496—377]

Q. Now, then, you did not make a correct statement when you made the statement before the Inspectors, that you did not take any notice as to whether she had any way on her?

A. I told them as near as I could.

Q. Are you telling it now as near as you can?

A. I am saying I do not think she had any way on her. Now, that is the same as I told them.

Q. You are giving that testimony?

A. Certainly, sir. Ain't it right there, too?

Q. Yes, you are right.

A. That vessel might have been going ahead a little and she might have been going astern a little. I could not tell.

Q. Now, at the time of the collision you say the "Beaver" was going full speed astern?

A. Yes, that is what she felt to me. I could not go up to the telegraph and look to see, I could tell by the vibration of the ship.

Q. Did you look over the side and see the water?

A. No, I did not see the water at the time, but as soon as I got to the side I could see the water she had churned right abreast of our boat; there was no headway on, because we lowered the boat—

Q. (Intg.) When was that? After the collision?

A. After the collision, when I left the forecastle,

(Testimony of Frederick Amor.)

we was fast in the ship, and it stayed there maybe for half a minute, I could not tell you how long it was. I got into a boat and started to lower a boat.

Q. You have said that the "Beaver" was going full speed astern? A. Yes.

Q. Now I want to know whether you mean by that that her engines were put full speed astern or whether the vessel was moving astern through the water? [497—378]

A. Oh, no; I said that the engines were going full speed astern. When we got into that boat we could see our water was churned up, and you know we had been stopped then—the back water got up as far as the bridge. The boat that we lowered down was only a little abaft of the bridge.

Q. That was after the collision?

A. That was after the collision, when I left the forecastle head and went to the boat.

Q. But before the collision, all that you know about the full speed astern movement of the "Beaver" came from your knowledge of the vibration?

A. Of the vibration, yes. You can tell in a minute when you put one of those ships astern, sir.

Q. Is it your judgment that at the time of the collision the "Beaver" had stopped her headway through the water?

A. Well, I believe so, yes.

Q. And you think the "Selja" was also dead in the water? A. I believe so, yes.

Q. How did the collision happen?

(Testimony of Frederick Amor.)

A. Well, I guess the sea brought her over on top of us.

Q. That is, the sea brought the "Selja" up and the "Beaver" down?

A. Yes, I guess the sea brought her afoul of us. Didn't hit so terribly hard, anyhow.

Q. You hit her hard enough to send her to the bottom of the sea?

A. Of course, we got her in a weak spot. (Laughter.)

Q. Have you told me all of the vessels that you met before you met the "Selja"?

A. That is the only two since I was on the lookout there; there might have been a half a dozen before I went up at four bells—I went there at 2 o'clock.

Q. After you were on the forecastle you passed two fishing steamers on your starboard bow?

A. Yes, there was two of them. [498—379]

Q. How many whistles did you hear from the first of those fishing steamers?

A. Well, we heard several of them—we heard sev-erla of those whistles.

Q. Which way was the fishing boat going?

A. It was bound into the city, sir; we was bound out. They was both going in, both sailing close together.

Q. Let us talk about the first one.

A. They was both close together.

Q. Let us talk about the first one. You heard several whistles from the first one? A. Yes.

Q. And then she passed you?

(Testimony of Frederick Amor.)

A. Yes; and then the other one came along.

Q. How far was the fishing boat from the "Beaver" at the time she passed?

A. Well, I could not tell you, sir; in a fog it is terribly deceiving. It was not extra thick, you know. What I mean is it would lift up once in a while and you could see quite a ways. When I first heard the whistle I could not see the vessel at all, you see, and I could not tell what it was; it might have been a big Atlantic liner for all I know.

Q. After a while you did see her?

A. Yes, the fog lifted; it would lift every now and then and you could see a considerable distance then, you know.

Q. We are now talking about the first one that passed.

A. Yes, the first one passed and the other came along.

Q. When you first heard her whistle you did not see her, but later you did see her?

A. When she commenced to get abeam we did see her, yes.

Q. You heard several whistles when she passed?

A. When she passed, and the other one came in her wake. [499—380]

Q. And the other one was coming along in the same way? A. Yes.

Q. You did not see the first one?

A. When she was on our bow we did not see her, but later when she got abeam I could tell what it was.

Q. How many whistles did you hear from the fishing boats?

(Testimony of Frederick Amor.)

A. Several whistles—until they got past.

Q. You could not tell how far off they were when you heard the first whistle?

A. No, I could not tell how far off they was.

Q. Could you tell what quarter on the bow they were?

A. I could tell. I could tell they was on the starboard bow. They might have been two or three points on our starboard bow, a point and a half or two points.

Q. When you heard the first whistle? A. Yes.

Q. You heard no whistle on the port bow?

A. No, I heard no whistle on the port bow at all.

Q. When you heard the "Selja's" second whistle did that seem to come from the same bearing that the first one did?

A. It seemed to me it did; it did not seem to me to change at all.

Q. That was about a point—

A. When we was getting closer to it—that ship was not; I did not say she was a point on our bow.

Q. What about the whistle? The whistle sounded a point on the bow?

A. Something like that, I could not tell you.

Q. That was the first whistle? A. Yes.

Q. And the second one sounded about the same place? A. Well, just about the same.

Q. Did you at any time see Point Reyes?

A. I seen it while we were lowering the boat. I was in the little boat belonging to that ship. I was overboard; I saw the land then.

(Testimony of Frederick Amor.)

Q. You saw the land?

A. Yes, when I was in the little boat, it [500—381] cleared up as clear as a bell, and we never had no fog since.

Q. Did you see the whistle blowing? A. Sir?

Q. Did you see the Point Reyes whistle blowing?

A. No, I did not see the whistle blowing.

Q. When you say you saw the land, you refer to the South End, or do you refer to the North End?

A. I saw the land. I could see it was Point Reyes, it was in between there and Duxbury Reef, at least Drake's Bay, there, because I know the land there well, I passed there so many times.

Q. You saw the land where the whistle is, that part?

A. Oh, yes, I did—well, I could tell by the land there.

Q. You saw that land but you could not see the whistle blowing?

A. No, I could not see the whistle blowing, I do not think they would be blowing the whistle anyhow, for after striking that ship it cleared up.

Q. But before it cleared up you did not see the land?

A. No, I did not see the land before it cleared up.

Q. And before it cleared up you did not see the whistle blowing? A. No; never heard it, either.

Q. Did you say you were in one of the boats that rescued some of the "Selja's" crew?

A. I was in our boat and the sea rolled up and capsized me out of it, sir, and I got in the water and

(Testimony of Frederick Amor.)

then that captain's wife came along there in a little boat; and we went and took his little children on and got them aboard of our ship. I got in the boat not knowing that was his lady in the boat; I got them in the boat and then I went sculling around in his little boat; I was going to see what was afloat around there, and the captain called me back, he said "Come back here with that boat," so I came back. [501—382]

Q. Don't go so fast and talk so much about things that I do not ask you about. We have got to the point where you were in the water. A. Yes.

Q. How did you get out of the water?

A. I got in that captain's boat, sir.

Q. Who helped you into that boat?

A. The captain's wife came along there, and like a lady, took one of the oars from the boat and put it over and I got hold of it—that captain's wife.

Q. By that you mean Captain Lie's wife?

A. That captain's wife there.

Q. Captain's Lie's wife? A. Yes.

Q. Were you the only man in the water?

A. I was the only one of those.

Q. You say the swell knocked you into the water?

A. Well, the forward fall was kind of slack and the after one was not slack, and so it got turned up and I turned with it and I got turned out; we hung our boat up afterward.

Q. Are you a drinking man?

A. Well, I take a glass once in a while, sir.

(Testimony of Frederick Amor.)

Redirect Examination.

Mr. DENMAN.—Q. When you got in that boat, who was in it?

A. When I got in, when I was in it?

Q. When you got in the boat in which the captain's wife was, who was in it?

A. There was a whole bunch of them in it; his wife and two little children and some Chinamen there. We took the little children on and put a line on them and got them up. The captain was not there at all then; he was aboard of his boat. Our boatswain went and picked him up afterwards; that was the boat I had. [502—383]

[Testimony of John Hanson, for Respondent.]

JOHN HANSON, called for the respondent, sworn.

Mr. DENMAN.—Q. How long have you been at sea, Mr. Hanson? A. Four and a half years.

Q. How old are you? A. Twenty-two.

Q. Were you on the "Beaver" at the time she collided with the "Selja"? A. Yes, sir.

Q. What position did you have on her at that time? A. Quartermaster.

Q. Were you on the bridge at the time of the collision? A. I was at the wheel.

Q. How long had you been at the wheel?

A. I had been at the wheel since 2 o'clock.

Q. Since 2 o'clock? A. Yes, sir.

Q. What was the condition of the weather on that day?

A. Well, it was heavy fog and heavy swell.

(Testimony of John Hanson.)

Q. What direction was the swell coming from?

A. Well, it was a northwesterly swell, a westerly swell.

Q. Was it westerly or northwesterly?

A. It was more northwesterly.

Q. What do you mean by northwesterly? How was your vessel heading with respect to the swell?

A. Well, the swell was a little on our starboard bow.

Q. A little on your starboard bow? A. Yes.

Q. What course were you steering?

A. I was steering north 86 west.

Q. You were steering north 86 west?

A. Yes, sir.

Q. How long had you been on that course?

A. Well, ever since I came to the wheel, that was 2 o'clock. [503—384]

Q. From 2 o'clock? A. Yes, sir.

Q. Did you hear a whistle from the "Selja"?

A. Yes, sir.

Q. About what time? A. Now, I could not say.

Q. About how long—do you remember the time?

A. No, I could not remember the time at all.

Q. Whereabouts was that whistle?

A. Well, it was on the bow about a point, I should judge.

Q. On the starboard bow. A. Yes, sir.

Q. What, if anything, happened then on your ship? A. What happened on our ship?

Q. Yes. A. What happened, do you mean,—

Q. When you heard the first whistle from the

(Testimony of John Hanson.)

"Selja" did anything happen on your ship?

A. Well, now, I do not exactly understand.

Q. Did you get any orders of any kind?

A. Well, not at the first whistle.

Q. What happened next?

A. Well, I got an order to starboard.

Q. You got an order to starboard?

A. To starboard half a point.

Q. Did you execute that order? A. Yes, sir.

Q. What happened then?

A. Well, she was on there for about a minute and I got an order to hard-a-port.

Q. To hard-a-port? A. Yes.

Q. How many whistles did you hear from the "Selja"? A. I heard two whistles.

Q. Two. What were they, two whistles at the same time or two single whistles?

A. Two single whistles, about a minute between.

Q. What is that?

A. Two single whistles, about a minute between, I should judge.

Q. When, with reference to the second whistle, did you get your [504—385] order to go hard-a-port? A. After the second whistle.

Q. What happened? Were there any other whistles from your vessel?

A. Yes; there was three whistles.

Q. When were the three whistles blown?

A. Well, just a little before I got the order hard-a-port, I should judge, he blowed the three whistles.

Q. Did you put the wheel hard over then?

(Testimony of John Hanson.)

A. Yes, sir.

Q. What happened then?

A. Well, what do you mean?

Q. What did you see next?

A. Well, then I put the window down in the wheelhouse, after I got the wheel over, and I seen the "Selja" myself.

Q. You saw the "Selja" where? Where was she lying just at that time?

A. She was laying a little on our starboard in the trough of the sea.

Q. She was lying on your starboard in the trough of the sea?

A. Yes; she was laying about right angles from us.

Q. How far away?

A. Well, I should judge about two ship lengths, about 700 feet, or so.

Q. Did you watch her until the collision?

A. Yes, sir.

Q. Where did the "Beaver" strike the "Selja"?

A. Just forward of the bridge, a little abaft of the forerigging.

Q. Foreward of the bridge a little abaft the forerigging. At what angle did you strike her?

A. Well, we struck the "Selja" at about right angles.

Q. At about right angles? A. Yes, sir.

Q. When was your watch up at the wheel?

A. My watch would have been up at 4 o'clock, two hours at the wheel.

(Testimony of John Hanson.)

Q. Did you remain on watch at the wheel after 4 o'clock? [505—386]

A. No, sir—well, I think it was a couple of minutes after 4 when I got relieved, after we had turned back.

Q. Let me go back to your testimony. You say the course you were steering just prior to your hearing the whistle of the "Selja" was north 86 west?

A. Yes, sir.

Q. What course had you steered prior to that time, Mr. Hanson?

A. Well, I had not steered any other. That was the course I was given when I relieved the man at the wheel at 2 o'clock.

Q. Are you sure of that?

A. What they were steering before 2 o'clock I could not say.

Q. Are you sure of that?

A. Well, I was not steering anything but 86; that is what I was steering.

Q. You are sure you relieved the man at the wheel sharp at 2 o'clock?

A. Yes, I am pretty sure—well, I guess it was about 2 minutes past, the time I came from aft and came on the bridge and came down again into the wheelhouse, a minute and a half or two minutes.

Q. What is the course that you usually steer when you first leave the North Channel, going from North Channel to Duxbury Reef?

A. I could not say as to that.

Q. You could not say as to that? A. No, sir.

(Testimony of John Hanson.)

Q. It is not the same course that you take going from Duxbury Reef past Point Reyes, is it?

A. No, sir.

Q. Do you know what time you passed Duxbury Reef on that day? A. I could not say, sir.

Q. Do you remember whether it was in your watch or not?

A. Well, it was along—no, I could not—well, it was in my watch but I could not say what time we passed there.

Q. It was in your watch?

A. Yes. I have got from 12 to 6; that [506—387] is what we call our watch.

Q. I mean while you were on the bridge.

A. No, sir.

Q. Do you remember whether or not you passed Duxbury while you were at the wheel?

A. No, sir.

Q. You don't remember that?

A. No, sir. I was steering the same course.

Cross-examination.

Mr. McCLANAHAN.—Q. Did you hear the Duxbury Buoy whistle? A. No, I never heard it.

Q. Did you see the whistle or the buoy?

A. No, sir.

Q. This north 86 west is magnetic, is it not?

A. I do not know as to that. I have got nothing to do with the deviation of the course. I simply take the course.

Q. You simply steer from the bridge compass?

A. We steer with the pilot-house compass.

(Testimony of John Hanson.)

Q. That was north 86 west?

A. Yes, north 86 west.

Q. This order to starboard, was it hard-a-starboard? A. No, sir.

Q. How much did you put it to starboard?

A. I put the wheel as far as it would swing half a point, and then I steadied her up.

Q. That is, you put the wheel to starboard so that she swung half a point to port and then you steadied it up? A. Yes, sir.

Q. Did the second whistle of the "Selja" come from the same bearing as the first whistle?

A. Well, practically, I think.

Q. Practically the same bearing? A. Yes, sir.

Q. You did not hear the Point Reyes whistle?

A. No, sir.

Q. You heard the "Selja's" three whistles, didn't you? A. Yes, sir.

Q. Was that before or after you saw the "Selja," that you heard those three whistles?

A. Well, after. [507—388]

Q. The starboarding, the porting, the seeing of the "Selja" was all right in together there, was it not?

A. Well, a space of a couple of minutes I should judge.

Q. Were you looking at the "'Selja" at the time of the impact? A. Yes, sir.

Q. She was then in the trough of the sea?

A. In the trough of the sea, yes.

(Testimony of John Hanson.)

Q. About the same position she was when you first saw her?

A. Well, it was starting to head out a little bit.

Q. By that you mean her bow began to swing a little to starboard? A. Yes, sir.

Redirect Examination.

Mr. DENMAN.—Q. Mr. Hanson, is it not a fact that when you first took the wheel you were steering north 82 west on the course of Duxbury Reef and at 2:15 you changed your course to north 86 west and finally got on that course?

A. I never steered any north 82 west, sir; no, sir. When I relieved the man at the wheel I steered north 86 west, and no other.

(An adjournment was here taken until Thursday, July 6th, 1911.) [508—389]

Thursday, July 6th, 1911.

(An adjournment is here taken to a day hereafter to be agreed upon.) [509—389½]

Saturday, July 15th, 1911.

[Testimony of Robert S. Paul, for Claimant.]

ROBERT S. PAUL, called for the "Beaver," claimant, sworn.

Mr. DENMAN.—Q. Mr. Paul, what is your occupation? A. Marine engineer.

Q. How long have you been a marine engineer?

A. Since 1878.

Q. You have served on all seas?

A. Yes, all parts of the world.

Q. And in private and in governmental service?

(Testimony of Robert S. Paul.)

A. Yes, sir.

Q. You were commissioned in the United States navy, were you?

A. I was in the transport service.

Q. How long have you been with the Pacific Mail Steamship Company?

A. Two years—two years and three or four months.

Q. Are you now with the San Francisco and Portland Steamship Company?

A. The San Francisco and Portland Steamship Company, yes.

Q. Were you on the "Beaver" at the time of the collision with the "Selja"? A. Yes, sir.

Q. What position did you then occupy?

A. Chief Engineer.

Q. Where were you at the time the vessel came out through the North Channel?

A. Oh, I was around the engine-room; I don't know just what part.

Q. Do you recollect what the condition of the weather was in the channel itself?

A. The weather, I think, was kind of clear going through the channel.

Q. How about the sea at that point?

A. Well, it was not very rough when we were going through the channel. [510—390]

Q. What would you say as to the sailing condition going through the channel for the purpose of making speed? A. Fair.

Q. About what speed would you be making, pre-

(Testimony of Robert S. Paul.)

suming that it was slack tide, about what speed do you think the "Beaver" was making coming through the North Channel? A. About 15.

Q. About 15 knots? A. Yes, sir.

Q. What was the condition of the weather after you left the North Channel, with regard to the condition of the sea?

A. It seemed to me to be getting rougher all the time, more sea on.

Q. How was it at the time of the collision, if you recollect? A. A pretty good sea was running.

Q. Would you say it was a pretty good sea or a swell? A. Well, a pretty heavy swell, I would say.

Q. At the time of the collision, would you say the sea was rougher at the time of the collision than at the time you left the North Channel?

A. Oh, it was rougher.

Q. From what direction was the sea coming?

A. It was coming from the west.

Q. Coming from the west?

A. Yes, so far as I remember, west or northwest.

Q. And was the vessel heading into the swells?

A. Yes, we were heading right up to the swell.

Q. What can you say as to the distance shown by the log as compared with the actual distance run, when the vessel is running into a head swell. Will the log overrun or underrun the vessel, where you are going into a head sea?

A. Well, I am not so very familiar with that log question, but I should say that I would suppose it would overrun. [511—391]

(Testimony of Robert S. Paul.)

Q. Did you see the "Selja" before the collision?

A. Just about a couple of seconds, I guess, before the collision.

Q. How was she lying at that time?

A. She was coming across our bow.

Q. How was she lying with reference to the sea itself?

A. She was lying, as far as I can recollect at that time, she was lying pretty much in the trough of the sea.

Q. What did you do when the collision occurred?

A. What did I do when the collision occurred?

Q. Yes. Where were you when the collision occurred—were you below or were you on deck?

A. I was right on deck when the collision occurred.

Q. Had you heard any of the whistles of the approaching vessels? A. Yes, I heard two whistles.

Q. You heard two whistles—from the "Selja"?

A. Yes, sir.

Q. Do you mean by that two signal whistles?

A. No, I heard one whistle and then a few minutes after I heard another whistle.

Q. Where were you at that time?

A. I was in my room.

Q. What happened after you heard the second whistle?

A. Full speed astern was ordered by telegraph in the engine-room, and I immediately went down there and saw that it was carried out.

Q. You went below, then?

A. Yes, sir, I went below.

(Testimony of Robert S. Paul.)

Q. What did you find?

A. I found everything was all right; I found the engine was going back full speed, and then I walked up on deck. [512—392]

Q. What happened when you got up on deck?

A. Do you mean coming up, as to whistles or anything?

A. Just tell what happened after you left the engine-room.

A. I came up, and as I was passing through my room I heard our ship blow three whistles and the other ship blew three whistles, and then I walked to the rail to look to see what was coming.

Q. How soon after that did you see the "Selja"?

A. Oh, I suppose it must have been just a few seconds, I could not say just how long.

Q. 30 seconds or a minute?

A. No, it would not be a minute, I don't think; well, it might have been at that, too.

Q. What would be the effect on the speed of your vessel steaming ahead in and dead on to a swell, such as you had on that day?

Mr. McCLANAHAN.—That is, if you know, Mr. Paul.

A. Please repeat that again.

Mr. DENMAN.—Q. Of course, I don't want you to say anything you don't know. What would be the effect on the speed of your vessel—what is the general effect on the speed of a vessel when sailing head-in to a swell such as you had that day, would it retard or accelerate the speed?

A. Oh, sure it would retard the speed of the ves-

(Testimony of Robert S. Paul.)

sel going into a head sea.

Q. What is the reason for that?

A. That would be the force of the wind against the ship, the resistance, and the force of the sea coming against the ship.

Q. Was there any wind on that day to amount to anything? A. Was there any wind?

Q. Yes.

A. Yes, there was considerable breeze, but it was not a gale of wind, as I would call it. [513—393]

Q. What would be the effect of the sea on the vessel—or the effect of the swell? Describe that.

A. You mean the ship going head-to?

Q. Yes.

A. With a sea such as we had that day some engines would race very heavy and it would retard them a great deal and you would have to either put on the governors or else you would have to stand by. In the case of our ship we raced just slightly.

Q. What do you mean by "racing"?

A. When an engine is racing is when the stern of the ship comes up and the propeller partly comes out of the water.

Q. Partly comes out of the water? A. Yes, sir.

Q. Suppose the propeller does not get completely out of the water, but just the upper portion of the blade is out, will that affect the power of the propeller?

A. Oh, yes, it will affect the speed of the ship to a certain extent.

Q. Was the vessel, as a matter of fact, exposing

(Testimony of Robert S. Paul.)

her propeller on that day? A. Yes, some.

Q. Did you have anything to do on that day with logging the ship? A. No.

Q. How much would you estimate the reducing effect on your speed that the swell on that day would occasion, how much would it amount to, do you think?

A. About 3 knots.

Q. Can you give that accurately?

A. Well, that is my estimation.

Q. Would you say it was 3¼ or 2¾, or could you give the accurate figure?

A. No, I could not give it accurately; that is what I would think, with the heavy sea we had that day.

Q. You are referring now to what time, when you left the [514—394] North Channel or after you got out in the rough water?

A. When we were well out in the heavy sea we were in that afternoon.

Q. About how many revolutions were you running when you had gotten out beyond the North Channel and were on your course northwest from that?

A. 77 turns we were making at 3 o'clock.

Q. Was there any reduction after that?

A. Yes, sir.

Q. How much? A. One turn.

Q. Had you any special orders from the captain to make 77 turns, or was that just the usual thing coming out of the harbor? A. That is just usual.

Q. What was the condition of the sea on the Potato Patch or the Four-fathom bank as you came out of the harbor that day? A. Pretty rough, bracing.

(Testimony of Robert S. Paul.)

Q. Do you know how many rows of breakers there were? A. No, sir.

Q. You didn't notice that? A. No.

Q. What is the maximum horse-power of your ship, Mr. Paul?

A. That is, the most I have gotten?

Q. Yes. A. About 4800.

Q. What is your estimate of the horse-power you developed when you were going astern at the time of the collision? A. Pretty near the maximum.

Q. You think so?

A. Yes. She was doing anywhere between 4,000 and 4,200.

Q. 4,000 to 4,200?

A. Yes, between that; that is, I should judge that. The engines were backing wide open.

Q. They were backing wide open, were they?

A. Yes, sir.

Q. How many turns does she make going full speed ahead at [515—395] your maximum?

A. 85 is the most I ever got. She has done more than that though on the trial trip.

Mr. DENMAN.—I think that is all.

Cross-examination.

Mr. McCLANAHAN.—Q. Chief, I see that in your direct examination you have made no distinction between the heavy sea and a swell; do you recognize that there is a distiction between a heavy sea and a swell?

A. Yes, certainly I understand that.

(Testimony of Robert S. Paul.)

Q. When you spoke of a heavy sea, did you mean a heavy sea?

A. Yes. I might have made a mistake in saying a heavy swell; I meant a heavy sea that day.

Q. You meant a heavy sea caused by wind?

A. Caused by wind.

Q. As distinguished from a swell which would not be caused by wind? A. Yes.

Q. On this day, you speak of a heavy sea, and you meant a sea caused by wind? A. Yes, sir.

Q. Have you got your log?

A. No, sir, I have not got the log.

Q. Where is it?

A. It went to the S. F. & P. Company.

Mr. McCLANAHAN.—(Addressing Mr. Durbrow.) Will you produce it?

Mr. DENMAN.—Yes, but I have not got it here.

Mr. McCLANAHAN.—You furnished me with a copy. I don't see how I can go on with the examination of the witness without the log.

Mr. DENMAN.—There was no demand made to produce it here.

Mr. McCLANAHAN.—But it is quite appropriate that you should have it here. You furnished me with a copy of the log [516—396] as of the day of the collision. That is all I have. I would like to look over the whole log.

Mr. DENMAN.—Is there anything more than this that you want? Will you examine on this and then inspect the log afterwards?

(Testimony of Robert S. Paul.)

Mr. McCLANAHAN.—Can't you send for the log now?

Mr. DENMAN.—Yes, I suppose so.

Mr. McCLANAHAN.—I can proceed with my examination in the meantime.

Mr. DENMAN.—Q. You don't keep the log yourself, do you, Chief? Who keeps the log?

A. I write the log up myself in the log-book, copying from the slate of the engineer's watch.

Q. The engineer makes the original entry on the slate, does he? A. Yes.

Mr. DENMAN.—I have telephoned my office and my clerk is not there to bring it out, but I can send a messenger down and get it. It is possible that we could adjourn the whole meeting to our office.

Mr. McCLANAHAN.—I think we had better go on here now.

Mr. DENMAN.—It is just 11 o'clock now.

Mr. McCLANAHAN.—Can we go on this afternoon?

Mr. DENMAN.—If you think you will need the witness that long, yes.

Mr. McCLANAHAN.—We will see. You will admit that this copy of the log entries of November 22 is a correct copy?

Mr. DENMAN.—I think it is; that is my understanding.

Mr. McCLANAHAN.—Q. When you left the dock on November 22, where were you—in the engine-room?

A. Yes, sir.

(Testimony of Robert S. Paul.)

Q. How long did you remain in the engine-room?

[517—397]

A. Oh, I was up and down to the engine-room all the time coming down the bay, more or less.

Q. You have not any recollection of how long you remained there?

A. I would be down there 10 minutes; sometimes maybe longer and sometimes less.

Q. Please confine your answers to November 22. You cannot remember how long you remained in the engine-room after you went down upon leaving the dock? A. No, sir.

Q. Did you remain there while you were still in the harbor?

A. Still in the harbor in San Francisco?

Q. Yes. A. No, sir.

Q. Did you remain there until you reached Meiggs' Wharf?

A. Yes, I believe I was there until we reached Meiggs' Wharf, if I remember correctly.

Q. And between Meiggs' Wharf and the North Heads you came out of the engine-room you think?

A. No, I was down in the engine-room but I don't remember what time we passed the North Heads at all.

Q. I didn't ask you that, Chief; you say you think you were in the engine-room when you passed Meiggs' Wharf? A. Yes, sir.

Q. Were you in the engine-room when you passed the North Heads? A. I don't know.

Q. So it may be that you came out of the engine-

(Testimony of Robert S. Paul.)

room between the North Heads and Meiggs' Wharf?

A. Possibly.

Q. I understand, then, that you go to the engine-room and stay a few minutes and then come out?

A. Yes, whenever I feel like it.

Q. What is the purpose of going to the engine-room in that way?

A. Just to see how everything is going. Sometimes I am down there half an hour. [518—398]

Q. What do you mean by "seeing how everything is going"?

A. To see how the machinery is working, and taking a look around the boilers. I am down in the engine-room twenty times from here to Portland.

Q. And your room is up on the deck, is it?

A. Yes, but I can go into my room out of the engine-room. There is a door leading from the engine-room into my room, the top part of the engine-room.

Q. And you go down on ladders? A. Yes.

Q. There is a door leading from your room to these ladders that go to the engine-room?

A. Yes, sir.

Q. Your room is on the starboard side, is it?

A. On the starboard side, yes, on the corner of the house.

Q. It is entirely enclosed, is it not? It is not an open room? That is to say, you have a door and a window that open out on the deck?

A. Yes, a door that opens out on the deck and a door that opens into the engine-room.

(Testimony of Robert S. Paul.)

Q. Are you in the habit of noticing the weather conditions when they are normal?

A. Well, I generally take a look around when I am on deck.

Q. When they are normal?

A. Yes, or blowing, or anything of the kind.

Q. So that you can remember trips when you had a normal sea and when you had a swell; you can remember trips, can you? A. Oh, yes.

Q. You make it a point to take notice?

A. Well, I don't know that I make a special point of it but I generally know the condition of the weather from day to day. [519—399]

Q. When did you strike this heavy sea that you referred to in your testimony?

Mr. DENMAN.—Sea or swell?

Mr. McCLANAHAN.—He said "sea." We settled that point.

A. After we came out through the North Heads and up through the channel, as we were going along further north the sea was getting heavier all the time.

Q. And the wind was blowing more?

A. Well, I don't know so much about the wind because I was not a great deal out on deck.

Q. Don't you know that you cannot have a heavy sea without wind?

A. Oh, yes you can. Lots of heavy sea runs after a gale of wind dies out.

Q. The sea, however, is caused by wind?

A. Yes, so far as I know.

(Testimony of Robert S. Paul.)

Q. You think this sea was caused by wind then blowing?

A. No, wind that had been blowing. I don't think it was blowing so very heavy at this time, but it was what they call a good sea.

Q. The sea was capping, was it?

A. Yes, and they were good long caps at that.

Q. And you make a clear distinction now between a heavy sea and a swell; you know the difference?

A. Yes, sir, I know the difference.

Q. And this was a sea, a heavy sea?

A. This was what I would call a heavy sea, yes.

Q. With white caps? A. With white caps.

Q. And this sea commenced shortly after leaving the North Channel and continued up to the point of the collision?

A. If my memory serves me right, yes, that is just about it.

Q. You had a heavy sea then when you passed Duxbury? [520—400]

A. I don't know; I didn't see Duxbury; I don't know anything about Duxbury. I naturally supposed though that it was pretty rough when we passed there.

Q. Don't you know when you passed it?

A. No, I do not.

Q. But this sea continued, so far as you remember, up to the time of the collision? A. Yes, sir.

Q. You were given a full speed ahead bell after you made your maneuvers and started out the bay, were you not? A. Yes, sir.

(Testimony of Robert S. Paul.)

Q. Were you in the engine-room then?

A. Yes, I was in the engine-room.

Q. What are the maximum revolutions of the "Beaver"? What were they on her trial trip?

A. On her trial trip they were 86.

Q. What speed did she make then? A. 17.6.

Q. 17 points 6?

A. I think that is what it was, yes.

Q. I understand that you never put your engines at more than 77 when full speed is given?

Mr. DENMAN.—He didn't say that.

A. No, I didn't say that. On this occasion she was turning 77 turns at 3 o'clock. I asked the engineer just at that time what she was turning then in that sea and he said 77.

Mr. McCLANAHAN.—Q. You did not know, then, except from what the engineer told you?

A. I did not know except what he told me because his watch was not up. Of course, we were not turning so fast coming down the bay.

Q. You were in the engine-room when you cleared the dock and headed out? A. Yes, sir.

Q. What were the engines then?

A. I don't know.

Q. Why, not?

A. Because we don't take them. In starting out big engines like that ship has got, or any big ship, when we go full speed ahead you don't shove the engines full speed right [521—401] away, maybe it takes 20 minutes.

Q. But in 20 minutes you have full speed?

(Testimony of Robert S. Paul.)

A. Probably that is so. Sometimes you have to work them out a little. Generally by the time you get by Meiggs' Wharf, or down to Fort Point, or along that way you generally have her going full speed.

Q. So that between Meiggs' Wharf and the North Head you had her going full speed? A. Oh, yes.

Q. And you got that order by telegraph from the bridge, did you? A. Yes.

Q. You maintained that, you say, until 3 o'clock?

A. Yes.

Q. And then you say there was a reduction in the revolutions of the engine, according to the report of your engineer to you?

A. No, there were no reductions at 3 o'clock at all. She was not making 86 turns.

Q. You mean to say that at 3 o'clock you were making the same revolutions as you were between Meiggs' Wharf and the North Heads?

A. No, sir, I don't know just exactly what she was making between Meiggs' Wharf and the North Heads.

Q. She was making the maximum full speed ahead revolutions that you usually make on that trip?

Mr. DENMAN.—No, up to that point, he said.

Mr. McCLANAHAN.—Q. (Continuing.) Is not that the fact, Chief?

A. We were making just what we usually make going down there. I never counted what she was making going down there.

(Testimony of Robert S. Paul.)

Q. Don't you know she usually makes between 83 and 85?

A. Yes, but she don't make it right off the reel.

Q. Between Meiggs' Wharf?

A. She would begin to pick up as she went along. Sometimes in going over the bar there is [522—402] quite a swell on and she don't do it until you get to smoother water.

Q. I took your suggestion that it took about 20 minutes to do it.

A. That is, to get the engine opened up. I don't mean to say to get the engines going 80 turns. Probably the steam is not up to the allowance right away.

Q. How long would it take her to get her engines up to turn between 83 and 85, after you have once received full speed ahead orders from the bridge?

A. Well, I have never done that. I never pulled her right out at 83 turns. I never had orders to go 83 turns right away.

Q. You never get orders to go any number of turns, do you?

A. Oh, yes, as a general thing we do.

Q. Did you get any orders on this particular day, November 22d, to go at any particular turns?

A. At 3:10, yes.

Q. Well, before 3:10? A. Before that, no.

Q. When you don't get orders to go at any particular turns what do you make?

A. We generally make anywhere along from 75 to 78, up until I would get orders.

(Testimony of Robert S. Paul.)

Q. Can you make 15 knots at 75 turns of the engine? A. No.

Q. Can you make it at 78? A. Yes.

Q. 15 knots?

A. I guess we could in smooth water.

Q. What do you consider your full speed revolutions?

A. Full speed revolutions of the ship was what she made on the trial trip, 86.

Q. Aside from the trial trip, and under your management I mean.

A. 85 is the most I have ever made.

Q. Under your management in the engine-room, what do you consider full speed revolutions of the engine? [523—403]

Q. That is, to open her up wide open?

Q. I said "full speed," didn't I? A. Yes.

Q. Well, answer that question, if you can. I didn't say anything about wide open.

A. That is a peculiar kind of a question to answer.

Q. How is it peculiar? When you get an order from the bridge full speed ahead, don't you know what that means? A. Yes, I certainly do.

Q. What does it mean to you?

A. It means to me to go ahead at a good speed. It does not specify any number of revolutions.

Q. What are the revolutions you make under such an order, and without any specific order?

A. About 77.

Q. About 77 revolutions?

A. About 75 to 77 revolutions.

(Testimony of Robert S. Paul.)

Q. So that that is your full speed, is it not?

A. Unless it is changed by the captain of the ship.

Q. Unless it is changed by other orders 77 revolutions is your full speed? A. Yes, sir.

Q. And under those revolutions you can make 15 knots, under favorable conditions?

A. I think so.

Q. And you did on November 22d?

A. I don't know how fast we were going. Not in that sea she could not.

Q. Don't you *remember you* made between Red Buoy No. 2 and the North Head—don't you remember you made 15 knots?

A. I do not. I don't remember what she made between the buoys.

Q. What did you say in your direct examination about 15 knots? Didn't you say something about making 15 knots? A. I don't think so.

Q. Didn't you say she made 15 knots going through the North Channel?

A. No, I don't know anything about what she made between the buoys. [524—404]

Q. What did you say in your direct examination, if you remember it, about making 15 knots on that day?

A. Going through smooth water—isn't that the idea?

Q. I am not asking you for an idea, I am asking for your statement now of your testimony on direct examination relative to the ship making 15 knots on

(Testimony of Robert S. Paul.)

the 22d day of November; when was it she made 15 knots?

A. Well, she must have made it while she was going through the North Channel.

Q. Exactly, and that is what you said on your direct examination? A. Yes.

Q. So that she made 15 knots on 77 revolutions, did she not? A. Going through there.

Mr. DENMAN.—Q. 77?

A. I don't know that she was making 77 revolutions. I did not count them going through the North Channel.

Mr. McCLANAHAN.—Q. You knew she was making 77 revolutions at 3 o'clock, from what your engineer told you? A. Yes, sir.

Q. And there had been no change from the bridge, had there?

A. She probably was making 77 going through there.

Q. And therefore making 15 knots?

A. Yes, sir.

Q. After she had left the North Channel, I understand from your direct testimony that this heavy sea retarded her progress to the extent of 3 knots, in your opinion? A. In my opinion, yes, sir.

Q. That was before 3 o'clock, was it not?

A. Oh, no, that was up to that time.

Q. Well, I say before 3 o'clock she was making only 12 knots? A. Yes, sir. [525—405]

Q. Before 3 o'clock? A. Before 3 o'clock.

Q. And at 3 o'clock your estimate is that she was making about 12 knots? A. About 12 knots.

(Testimony of Robert S. Paul.)

Q. Do you know what knowledge Captain Kidston of the "Beaver" has of your understanding of what full speed means when he telegraphs from the bridge to the engine-room? Does he mean that ordinarily full speed, without any positive or direct orders to the contrary, when telegraphed from the bridge, means 77 revolutions about? Does he know that?

A. I never talked to him about it.

Q. You mean to say that the captain of the ship does not know what revolutions full speed means when he telegraphs down? A. He certainly does.

Q. You say he certainly does? A. Yes.

Q. Then you think that Captain Kidston must necessarily know that ordinarily full speed when telegraphed from the bridge means about 77 revolutions?

A. I should think so.

Q. Now, suppose he wanted you to open up?

A. Then he would send me a note or give a written order.

Q. He would give you a written order?

A. Yes, sir.

Q. And what speed would you go under the written order, would he name the number of revolutions?

A. Yes, sir.

Q. So he must know then that 77 revolutions are the ordinary number of revolutions you would make under an ordinary telegraphing from the bridge?

A. Yes, sir.

Q. And if he wants you to make 83, 84 or 85 revolutions he sends a written order to that effect to the engine-room? A. Yes, sir.

(Testimony of Robert S. Paul.)

Q. Has that ever been done? A. Yes, sir.

Q. When and under what conditions? [526—406]

A. On lots of occasions.

Q. What for?

A. Well, sometimes we would be a little behind and would want to get in. On this occasion he—

Q. (Intg.) On this occasion? A. Yes, sir.

Q. What occasion are you referring to—to November 22d? A. Yes, sir.

Q. He sent you a written order to increase the speed? A. No, to decrease it.

Q. I am speaking of increasing it. Did he ever send you a written order to increase the speed?

A. No, sir.

Q. How do you know that that would be his motive for doing it, if he wanted to do it?

A. He has always done it.

Q. You say he never has done it?

A. When he wanted to alter the speed of the engine.

Q. When he wanted to reduce the speed he would send you a written notice? A. Yes, sir.

Q. But I say to increase the speed, he never sent you a written notice, did he?

A. On any other voyage before that time?

Q. I am speaking of any time at all?

A. Oh, yes.

Q. You remember it, do you? A. Yes, sir.

Q. When was it?

A. I don't remember the different voyages. It was perhaps on coming out of a fog.

(Testimony of Robert S. Paul.)

Q. What was the occasion of his sending you a notice to increase the speed?

A. When the weather would clear up after we would be slowed down in the fog.

Q. Were you going at 77 revolutions this day because of the fog? A. No, not that I know of.

Q. On this other occasion when the captain has sent you a note to increase the revolutions from the ordinary full speed, had you been in a fog? [527—407] A. Sometimes.

Q. Going at 77 revolutions in the fog?

A. I don't remember just what we were going. I remember on one or two occasions the captain sent me a note to make 80 revolutions, after the weather cleared up.

Q. After the weather cleared up? A. Yes, sir.

Q. Is that the way the note read, after the weather cleared up?

A. No. He sent it at the time when the weather was clear.

Q. What did he want to make 80 revolutions for?

A. Well, you lose time when the ship is going slow.

Q. But we have not any slow ship here, at 77 revolutions. A. You are asking me about other trips.

Q. I am asking you about other trips than on this day. She is going 77 revolutions, full speed, and you say the captain has ordered you to increase the speed. I have asked you what was the occasion for increasing the speed.

Mr. DENMAN.—I object to the question upon the ground that he has not testified that he went at 77

(Testimony of Robert S. Paul.)

revolutions at all times on all the other voyages and there is no evidence at all when he increased the speed he increased it from 77 revolutions; he might have increased it from anything else.

Mr. McCLANAHAN.—Q. Can you answer my question, or do you want it read to you?

A. We have not always went at 77 revolutions.

Q. Then you have conveyed to me a wrong impression, for I understood from you clearly, Chief, that when you got a notice from the bridge by the telegraph to go at full speed, after leaving port, after clearing, after making your maneuvers and making for the entrance, and after you worked your engine up to full speed, they were going at 77 revolutions about—is [528—408] not that so? A. Yes, sir.

Q. On all occasions?

A. No, not on all occasions.

Q. How do you differentiate between some occasions when you go at 77 revolutions on telegraphic communication from the bridge and on other occasions on the same kind of telegraphic communication you go at a slower number of revolutions?

A. There are occasions when the ship is bound to San Pedro that we are allowed to make only 76 revolutions.

Q. So that when you leave here for San Pedro you are not allowed to make more than 76 revolutions at full speed? A. No, sir.

Q. Where do you get those orders?

A. I got them from the captain.

Q. Do you know where he gets them?

(Testimony of Robert S. Paul.)

A. I guess he gets them from the main office.

A. And that is for the purpose of not making too much speed between here and San Diego?

A. No, it is not.

Q. Well, what is the purpose?

Mr. DENMAN.—Q. Do you know the reason, Chief?

A. I don't know, but I have heard that it is on account of not having much freight in the ship—on account of the vibration.

Mr. McCLANAHAN.—Q. So the rule is not to make over 76? A. Yes, sir.

Q. But going north you make 77?

A. Sometimes we average 73 all the way up, and sometimes 75 or 77.

Q. I am not talking about what you average; I want to know if when you are going full speed, on telegraphic communication from the bridge, you make a change from 77 under any conditions.

[529—409]

A. No, I don't know that we make a change—well, we have made changes, yes.

Q. What are the circumstances under which you made changes?

A. The circumstances on a couple of occasions, as I remember it, was on account—I think twice we were in a strong head wind and we were a little behind and when the wind died down the captain gave me orders to make 80 revolutions.

Q. But aside from these unusual occurrences of storms, and so forth, 77 revolutions is the fixed rate

(Testimony of Robert S. Paul.)

at which you go on a full speed order from the bridge? A. That is about the average.

Q. And at those revolutions you can make 15 knots?

A. Yes, sir, I guess we can.

Q. You spoke about the log of the ship overrunning under certain circumstances, did you not, on your direct examination?

A. I said I was not very familiar with it but I guess that it was what was done.

Q. Well, you have the evidence in the record here that the log would overrun? A. Yes, sir.

Q. What do you know about the log's overrunning—very little, do you not? A. Very little.

Q. Very little; why do you say it would overrun?

A. Just because I heard the officers talking about it.

Q. You know nothing about it yourself?

A. Absolutely nothing.

Q. Did you mean, when you said that, that the log would show more or less than the actual speed of the ship? A. I think it shows more.

Q. More than the actual speed of the ship?

A. Yes.

Mr. DENMAN.—Speed or distance, do you mean?

[530—410]

Mr. McCLANAHAN.—Distance.

Q. And you meant, Chief, that it would show more in the actual distance run by the ship, where the weather is rough?

A. The log would show more—I didn't quite catch

(Testimony of Robert S. Paul.)

that. Please repeat it.

Mr. McCLANAHAN.—I will ask the stenographer to read the question.

(Question read by the Reporter.)

A. Well, I should judge it would. I am not familiar you know with the log question. All I know about the slip of the log is what I hear the different officers talk about.

Q. Well, did you understand that the log was defective?

A. No, I don't know that it was defective.

Q. But that it was simply influenced one way or the other by the condition of the sea?

A. Yes, that is it.

Q. But we are not to place any reliance on your testimony in regard to the log because you don't know anything about it? A. No.

Q. When you say that your revolutions at full speed are 77, you mean about 77, do you not?

A. About 77.

Q. You would find it very difficult to place your engine at 77 revolutions, would you not?

A. Well, it is not a very easy matter to prove. Maybe it is two or three-tenths either way, although I have seen it done.

Q. But it was simply a matter of chance, was it not, where it was done?

A. No, I have seen it done in smooth water.

Q. Where you can place your engines at an exact number of revolutions?

A. Yes, sir. I have seen engines do it watch in and watch out.

(Testimony of Robert S. Paul.)

Q. It is rather remarkable, is it not? [531—411]

A. Well, I don't know; you can set them way.

Q. What is that?

A. I say you can set them in smooth water.

Q. Set them at an exact number of revolutions?

A. Yes. I have seen it done many a time.

Q. Yes, I know it, and I say it is remarkable that you have seen it; you remember the occasions, do you?

A. Yes, sir. When I was assistant engineer of ships I have done it.

Q. And it has impressed your mind, has it not?

A. Yes.

Q. Ordinarily you cannot do it?

A. No, you cannot ordinarily.

Q. Chief, what is the reason, if you know it, for the sending to you of this written order on November 22d to reduce from 77 to 76?

A. I suppose the captain didn't want to go any faster than that.

Q. You have told me that the captain must know that the ordinary full speed as telegraphed from the bridge would be about 77? A. Yes.

Q. With that knowledge he sends to you, as I understand it, a written order to reduce to 76?

A. To make 76 revolutions.

Q. Well, that is a reduction, is it not?

A. Yes, a reduction of one.

Q. You don't know why he did that, or, do you know?

A. No. He just sent me down the word, sent me

(Testimony of Robert S. Paul.)

down the order.

Q. Do you know how much of a reduction that would amout to in an hour on your ship?

A. It would amount to 60 revolutions.

Q. How much would that be in an hour?

A. You mean in the speed of the ship?

Q. Yes. [532—412]

A. Oh, I don't know; I never figured that out.

Q. It would not be very material, would it?

A. It would not be a whole lot.

Q. Did you ever figure it out? A. No.

Q. You don't know why he wanted to reduce the speed from 77 to 76, do you?

A. Well, the weather was foggy.

Q. The weather was foggy; that was the reason, do you think, or do you know?

A. That is only what I think. I don't know. The captain did not consult me because he was on the bridge.

Q. He was on the bridge, when?

A. I suppose when he sent me down this order.

Q. You suppose so? A. Yes, sir.

Q. You don't know, do you? A. No.

Q. Where were you when the note came?

A. In my room.

Q. You don't know where it came from?

A. You mean what part of the ship it came from?

Q. Yes.

A. No, but I naturally supposed it came from the bridge.

Q. But you don't know anything about that?

(Testimony of Robert S. Paul.)

A. No.

Q. Who brought you the note?

A. The quartermaster.

Q. When you get these orders from the captain, especially in foggy weather, you execute them at once, do you not? A. Yes, sir.

Q. Why was not this executed at once?

A. Why wasn't what?

Q. This order reducing your revolutions from 77 to 76? A. It was ordered right away.

Q. You ordered it right away?

A. Right away, yes, sir. [533—413]

Q. And that was at 3:10, was it not?

A. At 3:10, yes, sir.

Q. And so far as you are concerned, if there was any lackness in the execution of that order, or the delivery of it, you had nothing to do with it?

A. Delivery of it to whom—the engineer on watch?

Mr. McCLANAHAN.—I will ask the Reporter to read the question to the witness.

(Question read by the Reporter.)

Mr. DENMAN.—The confusion in the mind of the witness is whether it is from the captain to him or from him to the engineer on watch.

Mr. McCLANAHAN.—I repeat my question: it is perfectly plain, is it not, Chief?

A. Yes. It went right direct from me to the engineer on watch.

Q. That is what I want to get. If there was any delay, you had nothing to do with it?

A. Not before that, no.

(Testimony of Robert S. Paul.)

Q. And it went from you to the engineer at 3:10?

A. Immediately.

Q. Well, that was at 3:10?

A. Yes, just as soon as I got it.

Q. When you delivered the order to the engineer, did you then go back to your room?

A. No, sir. I whistled down through the speaking-tube.

Q. Oh, I see; so you were not in the engine-room to see the execution of the order?

A. No, but I know it was done because I know by the sound of the engine when they alter the speed of her.

Q. Do you mean to say that you can tell the alteration of one turn of the engine?

A. When they pull the throttle in slightly you can hear the steam wire drawn through the throttle as [534—414] they execute the order.

Q. Now, just answer my question, please: Can you tell from your room when the engines on the "Beaver" are reduced from 77 to 76 turns?

A. No, I cannot, but what I meant by answering your question that way was that I can tell that the engineer is executing the order right away.

Q. You mean he is doing something with the engines? A. Yes, sir.

Q. But you don't know what he is doing?

A. I know he is reducing her in.

Q. How do you know he is reducing it?

A. Because that is the order he got and he is obeying it.

(Testimony of Robert S. Paul.)

Q. Then your knowledge is based on the assumption that he is carrying out the order? A. Yes, sir.

Q. And nothing else? A. That is it.

Q. Are you willing to swear on your oath that in this particular case when you whistled down to that engine-room to have the revolutions reduced to 76, that they were reduced to 76?

A. Well, he reduced them as near 76 as he possibly could in that short space of time.

Q. What short space of time are you referring to?

A. From 3:10 to 3:15 when the collision occurred.

Q. Then he would experiment with the engines, would he, before he could get 76?

A. He would probably slow her down more than 76. You cannot slow her right down on to 76 immediately. They generally slow her down a lot more than that.

Q. You told me awhile ago you could reduce one revolution immediately and that you have seen it done?

A. Oh, no, I told you that what I had seen done—you said about a ship making exactly 77 revolutions, and I said I had seen that done. [535—415]

Q. Well, that is practically the same thing, is it not?

A. That is not reducing from 77 to 76.

Q. Oh, that is a more difficult thing than to exactly strike a given number of revolutions? A. Yes, sir.

Q. That is more difficult, is it?

A. Yes, sir, to pull her right down one turn right away. The chances are they pulled her in probably

(Testimony of Robert S. Paul.)

two turns and then stood there and counted the revolutions.

Q. And then pushed her up?

A. Up or down again.

Q. So you have to experiment before you get on the 76.

A. You have to for a couple of minutes, yes; a couple of minutes or probably 3 or 4 minutes.

Q. Who is this engineer that you telephoned to or spoke to through the tube?

A. He was the Second Assistant Engineer.

Q. What is his name? A. Townsend.

Q. Is he to come and testify in this case, so far as you know? A. I don't know.

Q. What did you do with this written order you got from the captain? A. I got it.

Q. What did you do with it? A. I have it.

Q. Where is it?

A. I think I have it in my pocket.

Q. Let me see it. You keep all these orders, don't you, Chief?

A. Well, I generally keep them until the end of the voyage.

Q. And then turn them in to the company?

A. No.

Q. What do you do with them?

A. Tear them up.

Q. What do you keep them for?

A. Well, I thought I would keep this one.

Q. Well, you keep them all, do you not, until the end of the voyage? A. Yes. [536—416]

Q. What do you keep them for? A. Sir?

(Testimony of Robert S. Paul.)

Q. What do you keep them for?

A. I just keep them in the log-book as a reference.

Q. You have produced the order, have you?

A. Yes.

Mr. DENMAN.—I never have seen it, Mr. McClanahan; let me see it.

Mr. McCLANAHAN.—I offer it in evidence and ask that it be marked Libelant's Exhibit 19. I will read it into the record.

[Libelant's Exhibit No. 19.]

"Mr. Paul,

Chief Eng. S.S. 'Beaver.'

Nov. 22–10.

Please slow to 76 turns per min.

And oblige,

WM. KIDSTON,

Commander."

I see that in the lower left-hand corner of this order there has been written: "Received 3–10 P. M. R. S. P." That is in your handwriting, is it not?

A. Yes, sir.

Q. I understand, Chief, that on this particular day you knew that your engines prior to this reduction were making 77 revolutions?

A. At 3 o'clock they were making 77.

Q. You knew that they were being turned at 77?

A. Yes. I whistled down to the engineer on watch and asked him what he was making, at 3 o'clock.

Q. And he said 77? A. 77.

Q. What did you want to know for?

A. I am always in the habit of doing that. Prob-

(Testimony of Robert S. Paul.)

ably 3 or 4 or 5 or 6 times a day I will whistle down and ask what revolutions [537—417] he is making.

Q. You had been in the engine-room before that, had you not? A. Yes, sir.

Q. Before 3 o'clock? A. Yes, sir.

Q. Could you not count the revolutions yourself?

A. I did not.

Q. Did you remain in your engine-room after this conversation with your engineer at 3 o'clock until about the time of the collision?

A. Yes, I was sitting down reading.

Q. Inside your room? A. Yes, sir.

Q. How far abaft the bridge is your room?

A. I don't know, but I guess probably somewhere in the neighborhood of 100 or 125 feet.

Q. What direction was the wind blowing that day?

A. The wind was blowing somewhere around from west, or west northwest, something like that.

Q. Do you know the velocity of the wind?

A. No, sir. I will take that answer back, too. I won't say exactly what point it was blowing from because it is not part of my business. I know the wind was what they call blowing on shore, blowing on the beach that day,—west or west northwest, something like that.

Q. You say it was not part of your business, but I understood you to say in the beginning of your examination that you did make it part of your business to observe weather conditions.

A. I observe the weather—the condition of the

(Testimony of Robert S. Paul.)

weather, but not as to the points the wind blows from; I mean a rough sea, or things of that kind.

A. Oh, yes, I understand you. What was the velocity of the wind? A. I could not tell you. [538—418]

Q. Can't you give us some idea?

A. No, I have not any idea about it at all.

Q. Do you know anything about the Buford Scale?

A. No, I do not.

Q. Would you call it a gale of wind?

A. No, I would not call it a gale.

Q. How would you designate it?

A. Well, I don't remember now just exactly how hard it was blowing when we got out there.

Q. It was not a hurricane?

A. Oh, no, it was not a hurricane. It might be probably a moderate gale.

Q. You did not leave your room between 3 o'clock and the time of the collision, did you? A. No, sir.

Q. I understand you to say that you were reading when you heard the first whistle of the "Selja"?

A. Yes, sir.

Q. What were you reading?

A. A newspaper.

Q. Where did this whistle sound from?

A. It sounded off our starboard side.

Q. Did you stop reading when you first heard the whistle? A. Yes, I did.

Q. Why?

A. Well, I thought I would just listen around and see what was doing. I thought I would hear the

(Testimony of Robert S. Paul.)

whistle again pretty soon.

Q. Did the character of the whistle make you stop reading—was it loud?

A. Just an ordinary whistle.

Q. Just an ordinary steamer's whistle?

A. Yes, sir.

Q. Close by? A. Well, I thought it was.

Q. You didn't leave your room at that time?

A. No, sir.

Q. When you heard the second whistle, that was about a minute after?

A. I suppose it was, probably something like that. [539—419]

Q. The regular fog-whistle of a steamer?

A. Yes, sir.

Q. Your whistle was blowing right along?

A. Yes, sir.

Q. When you heard the second whistle, I understand you did get up? A. You bet I did.

Q. Why do you say "You bet I did"?

A. Because it was getting pretty close, I thought.

Q. You went to the side of the rail, did you not, from your room? A. No, sir, not then.

Q. I will be very sure of that because I have here before me, Mr. Paul, your evidence given before the Inspectors, and I want to see if we cannot make the two statements coincide. You say you did not leave your room to go to the rail after hearing the second whistle?

A. No, I went in the engine-room. They tele-

(Testimony of Robert S. Paul.)

graphed full speed astern and I went down in the engine-room.

Q. After hearing the second whistle?

A. Yes, sir.

Q. You went down the ladder into the engine-room? A. Yes, sir.

Q. As you stepped from your room on to the ladder in the engine-room did you not see then that they had the lever up for full speed astern?

A. No, I had to be down on the second grating to see that. When I got on the second platform the engines were going astern.

Q. But when you stepped from your room on to the ladder you heard the signal given from the bridge?

A. No, sir; I heard it in my room before I went down, and that is why I ran down in the engine-room.

Q. After you had gone down into the engine-room and had seen that the order full speed astern had been executed, then I understand you came up again and went out through your room on to the deck? [540—420] A. Yes, that is right.

Q. Then you went out to the rail? A. Yes, sir.

Q. And then you saw the "Selja"?

A. Yes, sir; it was a few seconds afterwards.

Q. After you went to the rail? A. Yes, sir.

Q. There is a little difference, it seems to me, between your testimony now and the testimony you gave before the Inspectors; let us see if we can reconcile it.

A. If there is they didn't take it down right, be-

(Testimony of Robert S. Paul.)

cause that is the exact testimony I gave.

Q. See if you recognize this testimony:

"Q. You state you heard a couple of whistles from the other ship; what whistles did you hear?" You remember that question, do you? A. Yes, sir.

Q. Your answer was: "I heard one whistle; I was sitting in my room reading; I heard another whistle and thought that was pretty close, looked out of the door, but didn't see anything."

A. My door was open.

Q. That is correct, is it, looked out the door.

A. Yes, I could look out the door from my room.

Q. And then you said: "Just began to turn back and looked over the rail and seen the steamer coming out of the fog."

A. No, I went right down in the engine-room.

Q. Then this testimony, the latter part of it which I have read, is not correct?

A. No, that is not right. There is something wrong in that.

Q. "Looked out of the door, but didn't seen anything"—that is correct, is it?

A. Yes, because I was sitting in the room just like this and could look through the door. [541—421]

Q. This is the statement that you say is not correct: "Just began to turn back and looked over the rail and seen the steamer coming out of the fog."

A. I had been down in the engine-room and came up.

Q. So you reconcile that by simply saying that in the interval you had been down in the engine-room

(Testimony of Robert S. Paul.)

and had come back? A. Yes, sir.

Q. Referring now again, Chief, to the revolutions, you have made the statement that this order to reduce to 76 turns reduced the speed of the ship; is that correct? A. Yes, sir, it would reduce her some.

Q. How much would it reduce her?

A. I cannot tell you.

Mr. DENMAN.—He testified it would not be very much.

Mr. McCLANAHAN.—Q. What is the best speed that that ship has ever made under your supervision?

A. Somewhere along between 15 and 15½ knots.

Q. Have you not made 16 knots with her?

A. No, never through the Passage, that I have any recollection of.

Q. Do you remember stating before the Inspectors that on November 22d, you slowed her down to 13 knots? A. That I slowed her to 13?

Q. Yes.

A. No, I do not. I recollect answering a question on the speed, what I thought she was going.

Q. Let me read to you some of your evidence and see if you can recognize it: "Q. The best your ship could do loaded? A. The best she has ever done is 16 knots; better than that on the trial trip.

Q. On this day? Slowed her to 13 knots; the engines were making 77, 78; I judge she was not going over 13 knots. [542—422]

Q. Your engines were full speed ahead? A. Not all the time.

(Testimony of Robert S. Paul.)

Q. When did you slow your engine down? A. 3:10."

That practically coincides with your evidence of to-day, does it not?

A. Yes, sir. When I say about 16 knots, I don't know that; I don't recollect that we ever made 16 knots between two ports average straight through. I suppose we have part of the way on the coast coming down. The captain can tell you more about that than I can.

Q. Referring now to the weather again after you left the North Channel, was it foggy?

A. It was clear when we came out the North Channel, if I remember correctly.

Q. When did it begin to get foggy?

A. I don't remember just when it did begin to get foggy; I can't remember that.

Q. You were in your room? A. Yes, sir.

Q. Do you remember whether it was foggy at 3 o'clock when you telegraphed down to the engineer about the speed he was making?

A. Yes, sir, it was.

Q. And it remained foggy from that time until the collision, did it not?

A. Well, it was getting thicker.

Q. What was that?

A. It was foggy and I thought on looking out through my door that it was getting thicker.

Q. And it remained thick until after the collision?

A. Yes, sir.

Q. Where were you after the collision?

(Testimony of Robert S. Paul.)

A. I was all over the ship.

Q. Didn't you go to the engine-room at all?

A. Yes, I certainly did. I was around with the Assistant Engineer seeing that she was not making any water, and so forth; and then I came up and went forward and got the carpenter [543—423] to sound the forward peak to see if she was making any water.

Q. Then what did you do?

A. Then I was around all the time until we got into the city, different parts of the ship and in the engine-room and saw to the bilges and the different things a man would do in a case of that kind.

Q. You were not in the engine-room continuously on the return trip?

A. No, not continuously, but I was down there quite frequently.

Q. You don't know what took place in the engine-room except from the entries on the slate which you copied in the log? A. That is the idea.

Q. Do you make any entries on your log of fractional parts of minutes as times when you receive orders relative to your engines? For instance, if you get an order at 12:55½, would you put down that half minute?

A. You mean to increase or to slow the engines?

Q. Yes, or to do anything? A. No.

Q. Why did you do it on this particular day?

A. Because those bells were rung that quick.

Q. I am referring now to an entry in the log while you were still in the harbor.

(Testimony of Robert S. Paul.)

A. Yes. In the bell-book the engineers always put that down whether it is half or a quarter or whatever it is. I thought you meant in the log-book. We don't keep that in the log-book. Those bells are kept in a regular bell-book. They are all 55½ or 54½, or whatever it is.

Q. And do you copy that into the log-book?

A. No, sir, there is a bell-book for that purpose. [544—424]

Q. What is it that is produced here?

Mr. DENMAN.—That is the bell-book, the log of bells.

Mr. McCLANAHAN.—I asked for the engineer's log.

Q. This is the log of bells you produced?

A. Yes, sir.

Mr. McCLANAHAN.—I wish the engineer's log. This that I have here is a copy of the bell-book and not the engineer's log.

Mr. DENMAN.—Yes, a copy of the book I have just given you.

Mr. McCLANAHAN.—If I remember correctly, Mr. Denman, my letter to you in reference to this matter and the negotiations that led to my receiving this, asked for the engine-room log.

Mr. DENMAN.—I presumed that that was what you wanted.

Mr. McCLANAHAN.—Can we have the engine-room log? I suppose you have it.

Mr. DENMAN.—I don't know. I have another book there and I presume that may be it. You can

(Testimony of Robert S. Paul.)

have it this afternoon if you want it.

Mr. McCLANAHAN.—Yes.

Q. What is this engine-room bell-book kept for?

A. To keep account of all bells rung going in or out of port.

Q. Don't you also put those *those* bells in your log?

A. No, sir. These are company orders.

Q. These are company orders?

A. Yes, sir, this book comes from the company's office.

Q. Are they taken from the slate or are they original entries?

A. Original entries, taken right from the telegraph as it is rung.

Q. What is the order in reference to the engineer's log-book, what do you put in the log?

A. The revolutions, the oil, the fuel and such things as that, the steam carried, the revolution of the pumps,—the regular engineer's log-book. [545—425]

Q. You remember the log-book of the "Beaver," do you? A. Yes, sir.

Q. Did you use it on November 22d?

A. Yes, sir.

Q. How long had you been using that book?

A. Ever since the ship came out.

Q. The same log? A. Yes, sir.

Q. Are you using it now? A. No, sir.

Q. You have another log-book since the collision?

A. Yes, sir.

Q. Where has this log been—the old log?

(Testimony of Robert S. Paul.)

A. It went to the office.

Q. Is this log which you used on November 22d a log that is signed by you? A. Yes, sir.

Q. On each day?

A. Yes—no, it is not signed by me each day, it is signed at the end of the trip.

Q. What entries are you ordered to put in your engineer's log—daily entries of what?

A. Daily entries of the performance, of the work of the engines.

Q. Her revolutions? A. Yes, sir.

Q. And the steam you carry? A. The steam.

Q. And the amount of fuel you burn?

A. Yes, the amount of fuel we burn.

Q. Well, we will have a look at it this afternoon. I don't suppose you are a practical seaman, are you?

A. No, sir.

Q. And yet you did say that this head sea would retard the speed of the "Beaver"? A. Yes, sir.

Q. You know that from common knowledge, do you not?

A. Yes, and from experience in going to sea.

Q. That is caused by the wind, is it not?

A. By the wind and the sea. [546—426]

Q. How does the sea cause it?

A. If there is a heavy sea the ship won't go through it as well as she will in calm smooth water.

Q. Don't you know that that is caused by the wind?

A. The sea is caused by the wind. I suppose you can trace it right back to the wind.

Q. Do you think the white caps you see at sea

(Testimony of Robert S. Paul.)

when there is a heavy wind blowing are travelling along? A. I should think they were.

Q. You don't know that, do you?

A. Well, I say I should think they were travelling along.

Q. That is the common understanding, is it not, that they are travelling? A. Yes, sir.

Q. Would the speed of the "Beaver" be retarded if there was simply a swell and no wind?

A. Oh, yes.

Q. And that would be because the swell retarded the ship? A. Yes, sir.

Q. Then your idea is that the swell moves along?

A. Yes, sir.

Q. If you put a block of wood on the top of the crest of a swell—

A. (Intg.) It won't stay there.

Q. It won't stay there, it goes right on with the swell, in the absence of some wind? A. Yes.

Q. You will try that, Chief, and you will see that you are mistaken.

A. Won't it go ahead with the wind?

Q. You will find that it is necessary to have wind in order to take the block of wood along. But your opinion is that the heavy sea that day did retard the speed of the "Beaver"? A. Yes, sir.

Q. And your 3-knot suggestion is only a suggestion as to the amount of speed that was cut off?

[547—427]

A. That is what I thought.

Q. And you had no basis for that other than your guess?

(Testimony of Robert S. Paul.)

A. My experience as an engineer of the ship.

Q. Based upon this condition of the sea that day, and the wind? A. Yes, sir.

Q. You think this reduction of one revolution, bringing it down to 76, had any material effect on the speed of the "Beaver" up to the time of the collision?

A. Well, I suppose it must have slowed her down some.

Q. I understood you to say it might have taken 3 or 4 minutes in order to accomplish that.

A. Yes, it would take 2 or 3 minutes, but I mean it would slow her down some after they got her set to that.

Q. What were the revolutions of the "Beaver's" engines on the way back to this port after the collision?

A. I don't recollect just what revolutions she was making.

Q. If you got from the bridge the same kind of an order with reference to the speed, you would be making about the same revolutions, would you not?

A. Yes, we would, but there were times there when we were running slow at different times. She was going about 76 or 77 turns at full speed.

Q. You ran for about 9 minutes at half speed on your way back, did you not? A. Yes, sir.

Q. That was because of the fog, was it not?

A. I can't recollect now just what it was. It is all in the log-book, what we did.

Q. The answer to my question is not in the log-book.

(Testimony of Robert S. Paul.)

Mr. DENMAN.—But he says he can't recollect.

Mr. McCLANAHAN.—I say the answer to my question is not in the log-book. [548—428]

A. I can't recollect just about that.

Q. Can you think of anything else that would cause you to make half speed for 9 minutes in the early part of the trip back to San Francisco unless it was for the fog?

A. No, I cannot recollect of anything else.

Q. There can be no other reason? A. No.

Q. If the fog should clear up you would go at full speed? A. Yes, sir.

Q. There would be no reason why you would not do that? A. No.

Q. Were you in the engine-room when she was making that?

A. I don't know whether I was, or not. I was up and down from the engine-room several times while we were coming in.

Q. Your engine-room bell-signal book shows that from 3:58 until 4:07 she was making half speed on the way back; that is for 9 minutes? A. Yes, sir.

Q. Where were you then?

A. All over the ship. Parts of the time I was down in the engine-room and parts of the time I was on deck.

Q. You remember that speed on the way back?

A. Yes, I remember that.

Q. Don't you remember it was foggy then?

A. The fog would clear up at intervals for a few minutes, but I don't remember just how much fog

(Testimony of Robert S. Paul.)

there was because I was not paying much attention to the fog.

Q. How did the "Beaver" lie with reference to the "Selja" after she struck?

A. After she struck the "Selja"?

Q. Yes, when you finally backed out and made your maneuvers how did she lie?

A. I think she kind of swung around more broadside to the sea.

Q. I don't think you understand me, Chief; did not the "Beaver" [549—429] and the "Selja" have their bows pointed the same way after the collision? Just picture the thing in your mind and see if that is not correct?

Mr. DENMAN.—How long after?

Mr. McCLANAHAN.—Until she sank?

A. Yes, they did both have their bows about the same way.

Q. And they both then would be practically in the trough of the sea during that period?

A. Yes, I remember that we kind of swung around a little from the trough of the sea.

Q. You did not anchor at all?

A. Not that I know of.

(A recess was here taken until 2 P. M.) [550—430]

AFTERNOON SESSION.

ROBERT S. PAUL cross-examination, resumed:

Mr. DENMAN.—Q. Mr. Paul, have you brought the engine-room log?

A. Yes, here it is (indicating).

(Testimony of Robert S. Paul.)

Mr. DENMAN.—(Addressing Mr. McClanahan.) Here is the log, Mr. McClanahan (handing).

Mr. McCLANAHAN.—Yes, thank you.

Mr. DENMAN.—Have you compared that copy, Mr. McClanahan?

Mr. McCLANAHAN.—Yes.

Mr. DENMAN.—And is it correct?

Mr. McCLANAHAN.—Yes, I think so. I introduce a copy of the engine-room bell-signals, for November 22d, furnished by the respondent to the libelant, it being a copy of the original entries in the engine-room bell-book. I ask that it be marked Libelant's Exhibit 20.

[Libelant's Exhibit No. 20.]

OFFICIAL RECORD ENGINE-ROOM BELL SIGNALS BETWEEN BRIDGE AND ENGINE-ROOM.

November 22, 1910. Voyage No. 12.

Dept. from S. F. for Portland.

Stand by		12:23 P. M.
Ast slow		12:50 " "
Stop 12:52	Ast full	12:53
Stop 12:54	Ast slow	12:55
Stop 12:55½	Ahd. full	12:56
Sp 1:03	Ahd. slow	1:03
Ahd. full 1:04		
Meiggs' wharf 1:12		
	At Sea P. M.	
Stop 3:15	Ast full	3:15
Ast full 3:15	Ast full	3:15
Stop 3:16	Ast full	3:16

(Testimony of Robert S. Paul.)

Stop 3:16½	Ast slow	3:17
Stop 3:17½	Ast slow	3:18
Stop 3:18½	Ahd slow 3:26 Stp	3:27
Ahd slow 3:57	Ahd half	3:58
And full 4:07	[551—431]	

K. TOWNSEND,
2nd Asst. Engineer.

A. D. BOYER,
1st Eng.

ROBT. S. PAUL,
Chf. Engineer.

Q. Chief, I understand that this 77 revolutions full speed rule was one established by the captain, so far as you know—communicated to you by the captain? A. Yes, sir.

Q. Did you hear the "Beaver's" three whistles at about the time the telegraph was rung full speed astern? A. Shortly after that.

Q. Was it before or after you had got into the engine-room? A. When I was coming up.

Q. So you had gone down into the engine-room and seen that the order full speed astern had been executed, and then when you were coming up you heard three whistles? A. Yes, sir.

Q. The three whistles could not have been blown then at the time the order to reverse was given?

A. No, they were not blown then. [552—431½]

Q. It was a matter of a second or two afterwards?

A. A second or two afterwards, and then that notified us that the engines were going astern.

Q. Mr. Paul, have you ever furnished to the San

(Testimony of Robert S. Paul.)

Francisco and Portland Steamship Company, or any of its officers, any information in regard to this collision?

A. No more than what is in that book, no more than we have talked it over.

Q. What book do you refer to?

A. The log-book. I have talked to the captain and with Mr. Denman about it. I have furnished nothing in writing.

Q. Have you talked with any of the officers of the company about it? A. No, sir.

Q. Or anyone connected with the company?

A. No, sir.

Q. You have given nobody any information other than these two gentlemen as to your estimate of the speed of the "Beaver" or the revolutions of her engines, or her horse-power?

A. No, sir, not that I know of.

Q. You never talked with Mr. Schwerin about it?

A. No, sir.

Q. Or with Mr. Frye? A. No, sir.

Q. Then if Mr. Frye or Mr. Schwerin should say that the speed of the "Beaver" was 11 knots, you don't know where they get that information?

A. No, sir, they never spoke to me about it.

Q. And you never gave it to them? A. No, sir.

Q. You never gave it to Captain Kidston?

A. No, sir.

Q. Chief, you can figure the slip of a propeller, can you not? A. Yes, sir.

(Testimony of Robert S. Paul.)

Q. I wish you would figure for me the slip of the "Beaver's" propeller, assuming that she travelled two miles in 8 minutes and that her revolutions were 77. You know the pitch of the wheel [553—432] do you not? A. Yes, sir.

Q. 22¼, was it not? A. Yes, sir.

Q. Now, give us the slip of the propeller.

Mr. DENMAN.—I object to the question in that it does not state that the same sea conditions are to exist at the time the slip is to be estimated, as when she was travelling the 15 knots. Do you mean during that period?

Mr. McCLANAHAN.—Q. It does not make any difference, does it, Chief, what the sea conditions were in order to find the slip, if you know the distance travelled in a certain time?

A. How long do you want this for?

Q. Answer my question. It does not make any difference about the sea conditions, does it, if you know the distance travelled and the time taken to travel that distance? A. And the revolutions.

Q. Yes, and the revolutions. Now, answer the question. What was the slip of the "Beaver's" propeller if she was making 2 knots in 8 minutes, 77 revolutions, 22¼ feet pitch?

Mr. DENMAN.—I object to this upon the ground that there is no evidence to show that she was making 77 revolutions at the time she was travelling 2 miles in 8 minutes.

Mr. McCLANAHAN.—Q. Just give the slip, please. A. If she made 2 miles in 8 minutes?

(Testimony of Robert S. Paul.)

Q. Yes, if she made 2 miles in 8 minutes, 77 revolutions, 22¼ feet pitch? A. 2 miles in 8 minutes?

Q. 2 knots; twice times 6080 feet?

A. There is no slip; there is just two-tenths of a mile difference between that.

Q. Between what?

A. Between the engine and what you say she went, 2 miles in 8 minutes; the engine went 2 miles and two-tenths in 8 minutes. That is the speed of the engine. There [554—433] is no slip between 2 miles and 2 and two-tenths miles.

Q. Now, tell me definitely and accurately what you have figured on.

A. The engine travelled 2 2/10 miles.

Q. I want the data that you have come to your conclusion on.

Mr. DENMAN.—Q. How did you get it, Chief?

Mr. McCLANAHAN.—Q. Now, the question is, not how did you get it but what data have you figured on.

A. I have figured that the ship went 2 miles in 8 minutes. The engine was making 77 revolutions a minute—that is what you say?

Q. Yes. And what was the pitch?

A. 22¼ feet.

Q. Now you say that under that data there was practically no slip to the propeller?

A. No. She went—

Q. (Intg.) Answer the question.

A. Practically no slip.

Q. Practically no slip? A. No.

(Testimony of Robert S. Paul.)

Q. Now, Chief, are you sure of your figures?

A. Well, there they are.

Q. Go over them; you may have made a mistake.

A. No, that is all right.

Q. You have compared your figures?

A. Yes, sir.

Q. Don't put your figures away.

A. No, that was the one I made a mistake on; that is all.

Q. What would be the speed of the vessel under that data?

A. You say she made 2 miles in 8 minutes.

Q. What is the speed per hour?

A. That would be probably about 15¼.

Q. Is it not just 15 exactly? A. Yes.

Q. Now, will you take another proposition, Chief; I want to know what the slip would be if instead of travelling 2 knots in 8 minutes the "Beaver" travelled 2 knots in 10 minutes, on [555—434] 77 revolutions? A. That would be 2 8/10.

Q. 2 8/10 per cent slip?

A. No, that would be 2 8/10 that the engines traveled. That is too low for me to figure. There would not be any slip on that, either.

Q. How do you figure, Chief?

A. The ship was making 77 revolutions for 10 minutes; that is 770 revolutions.

Q. You multiply 77 by 10? A. Yes, sir.

Q. That equals 770 revolutions? A. Yes, sir.

Q. Then what do you do?

A. Multiply that by 22¼.

(Testimony of Robert S. Paul.)

Q. That is the pitch, is it? A. Yes, sir.

Q. What does that give you?

A. That gives 1,713,250; then you divide that by 6080.

Q. Just wait a minute. That gives you the speed of the engine? A. Yes, in feet.

Q. What do you make that? A. 1,713,250.

Q. And what is that? A. Feet.

Q. You mean 11,713 feet, don't you? How many feet do you figure is the result of multiplying 770 by 22¼; how many feet? A. 1,713,250.

Q. 1,713,250? A. Yes, sir.

Q. You don't mean that, do you, Chief?

A. Well, there it is.

Q. You mean to say that multiplying 770 by 22¼ gives 1,713,250? A. 22.25.

Mr. PAGE.—You have made a mistake in your decimals.

Mr. McCLANAHAN.—Q. If you point off the decimal it will give you 17,132 feet, will it not?

A. Yes, sir.

Q. That is the speed of your engine, in feet?

A. Yes, sir, in feet. [556—435]

Q. Now, how do you find the slip?

A. Then you divide that by 6080.

Q. What does that give you?

A. That will give you 2.8.

Q. As what?

A. As the speed of the engine in those 10 minutes.

Q. 2.8 miles is the speed of the engine in 10 minutes? A. Yes, sir.

(Testimony of Robert S. Paul.)

Q. And what was the actual speed made?

A. You said 2 miles.

Q. And eight-tenths of a mile would be accounted for by the slip? A. Yes, sir.

Q. Can't you tell what percentage that is?

A. Well, the way to figure that is, you subtract one from the other and then divide the greater into the less; that don't amount to nothing.

Q. Well, you just figure it out and see if it doesn't amount to something, Chief.

A. That is going too deep into fractions for me.

Q. That is too deep? A. Yes, sir.

Q. Can you figure it out if we extend the distance say to a knot in one hour; suppose she were making 15 miles an hour, what would be her slip?

A. If the ship were making 15 miles an hour and the engine was making 77 revolutions—

Q. Yes, what would be her slip?

A. 6.2 per cent.

Q. If she were traveling at the same rate of speed for 10 minutes there would be the same slip, would there not?

Mr. DENMAN.—The same percentage.

Mr. McCLANAHAN.—Yes.

A. Yes, there ought to be. [557—436]

Q. What would be the slip if she were traveling 12 knots per hour? A. The same revolutions?

Q. At the same revolutions? A. An hour.

Q. Yes. A. That would be 25.

Q. 25 per cent slip? A. Yes.

Q. Have you gone over your figures carefully?

(Testimony of Robert S. Paul.)

A. Yes. The engine traveled the same distance in an hour, in 77 revolutions, and there is a difference of 4 miles.

Mr. DENMAN.—4 miles?

Mr. McCLANAHAN.—Oh, no, not 4 miles.

A. You have 12 miles now and you had 15 miles before.

Q. Well, did you figure 3 or 4?

A. I figured 3; you said 12 knots the last time.

Q. I said 12 knots speed of the ship and 15 before. Your answer to the first was what?

A. 6.2 per cent.

Q. And the answer to the second is 25 per cent?

A. Yes.

Q. What speed was the "Beaver" making on the day of the collision? A. What speed?

Q. Yes; I mean what slip was her propeller making on the day of the collision?

Mr. DENMAN.—At what time?

Mr. McCLANAHAN.—Now, Mr. Denman, the witness will clear all that up if it is to be cleared up.

Mr. DENMAN.—It is a perfectly fair inquiry.

Mr. McCLANAHAN.—Q. (Continuing.) Now that you have your cue, Mr. Witness, go ahead and answer the question.

Mr. DENMAN.—And I say again, at what time?

Mr. McCLANAHAN.—He has your cue. Now, go ahead, Chief.

Mr. DENMAN.—I asked at what time.

Mr. McCLANAHAN.—I do not desire to change

(Testimony of Robert S. Paul.)

the form of my [558—437] question on cross-examination.

A. I don't know what time you mean.

Q. You want to know what time I refer to?

A. Yes, sir.

Q. Well, I will tell you the time—at 3 o'clock.

A. I don't know what speed she was making. I never asked the captain what speed she was making. I don't know what speed she was making at 3 o'clock.

Q. Would the captain know the speed?

A. If he didn't I would not.

Q. Please answer the question.

A. I suppose he ought to know.

Q. You say you didn't ask the captain?

A. No, I didn't ask him what speed she was making at 3 o'clock.

Q. How would he know what speed she was making? A. I suppose by the log.

Q. So you don't know the slip of the "Beaver" on the day in question at any time, do you?

A. No, I do not.

Q. Didn't you before the Inspectors testify as to the slip of the "Beaver's" propeller on the day in question?

A. They asked me what slip I thought she would have, and I said I didn't know, because I didn't know then what she traveled and don't know to-day.

Q. You make a distinction on what you knew then and what you know to-day?

A. I didn't know what distance she traveled.

(Testimony of Robert S. Paul.)

Q. Didn't you know on the day you testified before the Inspectors?

A. I think they asked me what slip she would have in a sea like that—wasn't that the question?

Q. I don't know what it was.

A. And I said I thought about 20 or 25 per cent.

Q. And you testified you didn't know anything about it?

A. Any more than what I thought. [559—438]

Q. What was your thought based upon?

A. On the roughness of the sea.

Q. On the roughness of the sea? A. Yes, sir.

Q. You thought your propeller must have been out of the water? A. Part of the time.

Q. You thought that; you didn't go to look?

A. No, I didn't go to the stern to look.

Q. And you didn't know that your engines were racing?

A. Oh, yes, I could tell sitting in my room if the engines were racing.

Q. And you could also tell the number of the revolutions of the engine sitting in your room, could you not?

A. No, sir, I could not tell without counting them.

Q. Well, couldn't you count them in your room?

A. I could, yes, sir.

Q. You did not do it, though? A. No.

Q. I believe you said that on the trial trip the "Beaver" made 86 revolutions and a speed of 17.6 knots.

A. I am not sure of that, whether it was 17 or 17

(Testimony of Robert S. Paul.)

and a little better; but it was 86 revolutions.

Q. Where did you get that information?

A. From the yard.

Q. The yard where she was built? A. Yes, sir.

Q. From whom? A. From the main office.

Q. Did you get it from some data?

A. Yes, sir, the indicator cards taken off the engines.

Q. Have you seen the blue prints that have been sent on here? A. Yes, sir.

Q. Did you get that data from those blue-prints?

A. Yes, sir.

Mr. McCLANAHAN.—I would like to have those blue-prints produced. [560—439]

Mr. DENMAN.—All right. I have them at my office. Do you want them this afternoon or will some other time do?

Mr. McCLANAHAN.—Well, produce them next Monday.

Q. Chief, do you get the same efficiency out of your engines backing as going full speed ahead?

A. Well, I have never drove a ship backward very far, but you are supposed to get almost the maximum horse-power out of the ship when you are backing her full speed astern as you are going ahead with a well proportioned wheel.

Q. Do you get the same efficiency out of your propeller backing as you would going ahead?

A. Yes, sir.

Q. Is that the best of your understanding?

A. Yes, sir, just as good.

(Testimony of Robert S. Paul.)

Q. Of course, the speed would not be the same?

A. Oh, no, the speed would not be the same.

Q. What would be the difference in the speed, what percentage of efficiency would you lose?

A. I don't know. I never have seen that tried.

Q. I understand you to say that you got 4800 horse-power out of your engines at one time when *you making* 85 revolutions?

A. 85 revolutions, yes, sir.

Q. When was that?

A. Going up the coast; I guess it was somewhere in the neighborhood of about a year ago.

Q. Any particular circumstances connected with the matter that you remember?

A. No, nothing very great.

Q. Well, what were they, great or small?

A. We were just running with another ship.

Q. What is that?

A. We were just running with another ship.

[561—440]

Q. Running along beside another ship?

A. A short distance off.

Q. Racing with her?

A. No, sir, ships never race.

Q. What were you doing?

A. We were just on our way to Portland, making time.

Q. Why do you say you were going along with another ship?

A. She was going along with us, I don't know that you would call it racing.

(Testimony of Robert S. Paul.)

Q. You were competing?

A. You might say that.

Q. You were competing in speed; is that it?

A. That is about the idea.

Q. Chief, do you in making these trips north or south ever by-pass any of your live steam into your intermediate or low pressures?

A. No, sir, only on the trial trip; never since the ship has been built.

Q. What is the length of your stroke?

A. 54 inches.

Q. What is the cut-off, the ordinary cut-off.

A. The ordinary cut-off along about 30 inches of the stroke, anywhere from 26 to 32 or 33.

Q. And what is the length did you say?

A. 54 inches.

Q. When did you ever cut it off to 33 or 34—as much as that? A. I have on several occasions.

Q. Would your log show it?

A. I guess it would.

Q. What was the cut-off on this occasion when you developed 4800 horse-power?

A. Pretty well open, I guess probably about 38 or 39.

Q. You were not by-passing any steam on that occasion? A. No, sir.

Q. That would not be allowed, would it?

A. We didn't have to.

Q. Do you know what horse-power was developed on the trial trip? A. Yes, sir. [562—441]

Q. What was it?

(Testimony of Robert S. Paul.)

A. You mean on 86 revolutions?

Q. Yes. A. 5,117.

Q. Where did you get that information?

A. Off the blue-prints.

Q. The indicated horse-power? A. Yes, sir.

Q. We asked that question, Chief, I think of the San Francisco & Portland Steampship Company and the answer was 4,448 indicated horse-power; do you know where they got that information?

A. I think they got that from me.

Q. Well, how do you reconcile that with your present answer?

A. That is what the ship was built for, 4400 or 4500.

Q. Now, they say that her speed on her trial trip—by "they" I mean the San Francisco & Portland Steamship Company, that her speed on the trial trip at Newport News in 1910, was 17.6 knots at 86 revolutions and 4,448 indicated horse-power?

A. That was about the average horse-power. On 86 revolutions—on the trial trip they took those about every 10 minutes, and that is what she was developing on those 10 minutes.

Q. Was she developing 86 revolutions when she made 17.6 knots?

A. I cannot say what she was developing when she made that but that is what we were told when we came in, that the ship went 17.6. I was too busy in the engine-room to know just what she was making.

Q. You have not checked that up with the blue-prints I am calling for, have you?

(Testimony of Robert S. Paul.)

A. The blue-print calls for lots of cards at different points of cut-off.

Q. The blue-print would call for a card showing the revolutions at 17.6 knots, would it not?

A. No, it just simply says on the blue-print, highest speed, 17.6. It don't say the average.

Q. Don't you know that the blue-print will show the speed made [563—442] at different revolutions? A. No, it does not.

Q. It does not show that? A. No.

Q. Are you sure about that? A. Yes, sir.

Q. We will find that out when we see the blue-print. A. Yes, sure.

Q. Did you ever have a slip of 25 per cent on the "Beaver"? A. Yes, sir.

Q. When you figure the slip, Chief, you take care of the sea conditions, do you not—that is, the slip takes care of them? A. Takes care of what?

Q. Of the sea conditions; the slip shows the loss of efficiency in the wheel due to sea conditions, does it not? A. Oh, yes.

Q. And all other conditions? A. Yes.

Q. You know the pitch of the wheel of the "Beaver" to be 22¼ feet, do you not?

A. Yes, 22 feet and 3 inches.

Mr. McCLANAHAN.—I think that is all.

Redirect Examination.

Mr. DENMAN.—Q. Mr. Paul, what did you do after the collision—did you have any duties in connection with the engine-room?

(Testimony of Robert S. Paul.)

A. Well, my duties were all over.

Q. All over? A. Yes, sir.

Q. Tell us what you did after the collision.

A. After the collision?

Q. After you struck, what did you do?

A. The first thing I did was, I went down into the engine-room, I went down and got the First Assistant and told him to get his men and take a look around to see there was nothing wrong in the engine-room, no pipes leaking and no other leaks. [564—443] Then I went and got the carpenter and saw the forward peak tank to see that the ship was not leaking. Of course, the tank was full of fresh water, and I wanted to see that it was not gaining any. Then from that time until the ship got to the dock I was around all the time, in the engine-room some of the time and some of the time on deck. Once in awhile I would go with the carpenter myself and have him sound to see if she was leaking any.

Q. Did you help any to get the passengers on board?

A. No, I had nothing to do with that.

Q. Did you take any particular notice at that time of what the "Selja" was doing,—what courses the "Selja" may have moved in? Did you take any particular observations as to that?

A. No, I did not take any particular observations of her.

Q. You say when you first saw the "Selja" she was lying in the trough of the sea; how was she pointed when she went down?

(Testimony of Robert S. Paul.)

A. If I remember rightly, she was pointed to the sea.

Q. Could you see the swell washing over her?

Mr. McCLANAHAN.—I object to your leading the witness.

Mr. DENMAN.—I will withdraw the question.

Q. When the "Beaver" struck the "Selja" at about what angle did she hit her?

A. I should judge from where I was that it was at about right angles.

Q. You said this morning that at sometime after that the vessels became parallel; do you recollect how long it took to get them around parallel?

A. No, I don't remember how long it took.

Q. Do you recollect or recall the movements of both the vessels before they arrived at a parallel position, do you recollect that, or did you notice that? [565—444]

A. Well, I noticed that our ship swung around a little, which she would naturally do by moving the engines.

Q. Was your vessel backed at all after the collision?

A. Backed after the collision—after we backed away from her?

Q. I mean just after the collision, did she back at all? A. Oh, yes, we backed at full speed.

Q. After you hit her? A. Yes, sir.

Q. What would be the tendency in regard to the bow of your vessel, which way would that swing,—to the starboard or to the port?

(Testimony of Robert S. Paul.)

A. I should think it would tend to swing her bow around with our's.

Q. Backing the engines would. What direction does the vessel swing in when she is backing?

A. I think that our ship swings to port.

Q. Are you sure of that?

A. I won't be sure, but I think so; I think that is the way she would.

Q. Is that in you department at all?

A. No, sir. I am very seldom on deck when the engines are backing.

Q. You say that when you came through the North Channel—let me ask you, first, what direction was whatever swell there was coming towards your vessel when you went through the North Channel?

Mr. McCLANAHAN.—I object to that upon the ground that the witness has not stated that there was a swell.

Mr. DENMAN.—Q. Was there any motion of the water at all coming through the North Channel at that time? A. Well, there was some motion.

Q. In what direction was it coming?

A. It seemed to me it was on the beam. [566—445]

Q. Would that have any effect on the speed with which the vessel would go—the amount of swell you had there?

A. Well, no, there was not so much sea in there that would affect her.

Q. You say the sea was breaking on the Potato Patch as you went out? A. Yes, sir.

(Testimony of Robert S. Paul.)

Q. White caps there as she was breaking?

A. Plenty of them.

Recross-examination.

Mr. McCLANAHAN.—Q. You have a right-hand propeller, have you not? A. Yes, sir.

Mr. DENMAN.—Now, Mr. McClanahan, I may, after I have had a chance to examine the mathematics of these calculations you have asked about—with with which I confess unfamiliarity—I say I may want to recall Mr. Paul later on. I don't know how to cross-examine him now, because I am not familiar with the mathematics or the mechanical principles governing them. I may want to see you, Mr. Paul, when you come into town again.

The WITNESS.—All right.

[Testimony of R. B. Seike, for Claimant.]

R. B. SEIKE, called for the "Beaver," claimant, sworn.

Mr. DENMAN.—Q. Mr. Seike, how long have you been at sea? A. About 26 years.

Q. How long have you had officer's papers?

A. About 14 years.

Q. Were you an officer on the "Beaver" at the time of the collision between her and the "Selja"?

A. I was.

Q. What position did you occupy?

A. First Officer.

Q. Were you on watch at the time of the collision? A. No. [567—446]

Q. Where were you? A. I was in my room.

Q. What were you doing in your room?

(Testimony of R. B. Seike.)

A. Lying down.

Q. How long had you been lying down?

A. About half an hour.

Mr. McCLANAHAN.—Q. That is, before the collision? A. Yes, sir.

Mr. DENMAN.—Q. Were you on deck when the vessel came through the North Channel?

A. I was.

Q. What was the condition of the sea at that time?

A. In the channel?

Q. In the channel.

A. The swell was coming off the Four-fathom Bank.

Q. What was the condition of the swell?

A. In what way?

Q. As to the amount of it.

A. Well, there was quite a little swell there; the bank was breaking and the swell was coming across the channel.

Q. It was breaking first on the bank?

A. Yes, sir; and the swell was coming across the channel.

Q. How was it cutting the ship?

A. Right across the beam.

Q. Would it affect her speed any?

A. Not at all.

Q. What is the condition of the tide in the North Channel an hour before high water?

A. An hour before high water it is about slack.

Q. Did you notice the condition of the sea after you left the North Channel? A. Yes, sir.

(Testimony of R. B. Seike.)

Q. What was it?

A. There was quite a swell there.

Q. What can you say with reference to the condition of the swell after you left the North Channel, and about the time of the collision, as to its relative intensity.

A. Well, the swell increased as we went along.

Q. Is that a usual condition with reference to waters near [568—447] the North Channel, and as you get further out, on a westerly swell?

A. It is on a westerly swell, yes.

Q. What would you say as to the condition of the swell at about the time of the collision?

A. Well, there was quite a heavy swell at the time of the collision when I came on deck.

Q. Had you noticed it before that? A. Yes, sir.

Q. Did you see the vessels come together?

A. No.

Q. How soon afterwards did you notice them?

A. I was on deck about a minute afterwards.

Q. Where was the "Selja" lying at that time with reference to the swell?

A. The "Selja" was heading up almost to the swell at that time.

Q. Heading almost to the swell? A. Yes.

Q. What did you do then?

A. The first thing I done, I went down and looked over the bow to see how much damage was done to our own ship.

Q. Then what did you do?

A. I went down and sounded No. 1 bilge.

(Testimony of R. B. Seike.)

Q. Where did you go then?

A. I went down and looked at No. 1 tank.

Q. And then?

A. Then I examined the collision bulkhead.

Q. And then?

A. Then I came up on the bridge and reported.

Q. Did you notice land at any time after the collision and before you started home? A. Yes, sir.

Q. Where?

A. Land along there between the north and south of Pt. Reyes, between the north and the south point.

Q. About what direction was the land from you at that time?

A. Well, I judged at the time that we were southeast of Pt. Reyes. [569—448]

Q. Did you have any reason to make that observation? A. Yes, sir.

Q. What was it?

A. I wanted to get my location in case it got thick again and we had to get in our own boats.

Q. So you would know where to row to?

A. Yes, sir.

Q. Are you familiar with the waters on the coast line there? A. I am.

Q. What have you done to familiarize yourself with that neighborhood?

A. I was running a tow-boat for a good many years around there.

Q. In whose employ?

A. Spreckels and the Red Stacks.

Q. You say "running"; you mean by that that you

(Testimony of R. B. Seike.)

were— A. (Intg.) I was captain of one.

Q. Were you on the bridge when the vessel returned to port? A. I was.

Q. Do you recollect what course you sailed from the place of collision, the first course?

A. South 71 east.

Q. What is the deviation of your compass on that course? A. 4 degrees easterly.

Q. So that if you were going on your compass magnetic south 71 east, what would be your course throught the water?

Mr. McCLANAHAN.—Magnetic south 71 east?

Mr. DENMAN.—Q. (Continuing.) By the ship's compass, south 71 east?

A. That would make it south 67 east magnetic.

Mr. DENMAN.—Q. What were you sailing by at that time? A. By the light ship.

Q. Did you pick her up? A. We did.

Q. On which bow?

A. Just a little on the starboard bow; almost ahead.

Q. And did you come in from there to port?

A. Yes. [570—449]

Q. Did you keep on that course steadily until you picked up the light ship?

A. Yes, with the exception of slowing down or stopping, I forget which now, when we met the Revenue Cutter. We met a Revenue Cutter just before we got to the light ship.

Q. Did you change your course during that time?

A. No, no change in the course.

Q. You have given a general direction from Pt.

(Testimony of R. B. Seike.)

Reyes; how far would you estimate you were from the point? A. About 6 miles.

Q. Did you see the lighthouse itself, the Pt. Reyes Lighthouse?

A. I don't remember of seeing the lighthouse.

Q. Did you see the lower point?

A. I could see the land down at the water, yes.

Q. And could you see the south point?

A. Yes, down to the water.

Q. Did you recognize it? A. Yes, sir.

Cross-examination.

Mr. McCLANAHAN.—Q. Were you on the bridge continuously from the time you started on your return to port?

A. I went down at times to sound bilges.

Q. Who else was on the bridge with you?

A. The Third Mate, and I think the Second Mate was there for awhile, if I remember right.

Q. When did you leave the point of collision?

A. Well, I don't know the time exactly. It was after we got our boats up and got them secured again.

Q. Had you charge of the telegraph after leaving?

A. No.

Q. Who did? A. The officer on the bridge.

Q. Who was he?

A. I think it was the Third Mate.

Q. Did you give him any instructions as to the use of the telegraph? A. No. [571—450]

Q. Who did? A. The captain did, I guess.

Q. Was the captain there?

A. The captain was there.

(Testimony of R. B. Seike.)

Q. How long was the captain on the bridge?

A. I don't know; I presume he was there all the time.

Q. Do you know what speed the vessel was making on her return after first starting? Don't you remember she made about half speed for about 10 minutes?

A. Well, I could not say just whether it was 10 minutes after we started that I got on the bridge, or whether it was 15 or 20.

Q. I thought you said you were on the bridge from the time that you started back to port.

A. No. I was securing the boats at the time of the actual start, and when things were secured I went on the bridge.

Q. So you were not there when the actual start was made?

A. Not when the actual start was made.

Q. What was the condition of the weather when you actually started back, as to fog?

A. Well, I don't know just exactly how far you could see, but there was an overhead fog, and, if I remember right, it settled down shortly after that again, got thick again.

Q. Were you blowing your fog-whistles?

A. Yes, sir.

Q. From the time you started back?

A. Yes, sir.

Q. Until when?

A. I don't remember just how soon they did commence to blow the fog-whistles because I was not at the bridge at the point of starting.

(Testimony of R. B. Seike.)

Q. When you were off the bridge they were blowing the fog whistles, were they?

A. I don't remember that.

Q. What do you remember about the fog-whistles being blown?

A. I remember they were blowing when I was on the bridge and when it was foggy. [572—451]

Q. Do you remember the speed you were going when your fog-whistle was blowing, while you were on the bridge?

A. I could not say exactly at what speed we were going.

Q. How do you know there was a deviation of 4 degrees in your compass easterly on that course?

A. Well, we have taken Azimuths and made deviation tables.

Q. When? A. We do that right along.

Q. Did you ever do it on this particular course from that point?

Mr. DENMAN.—From what point?

Mr. McCLANAHAN.—Q. From the point of collision? A. No, not from the point of collision.

Q. Then how do you know there is a deviation of 4 degrees?

A. Because we have done it on that course.

Q. When? A. Previous to that.

Q. On south 71 east course?

A. Yes, sir; or thereabouts, within a degree or two.

Q. What do you mean, that the time you have taken the deviation—

A. (Intg.) I mean with reference to the course.

(Testimony of R. B. Seike.)

Q. Do you remember when you last took the deviation? A. No, I don't remember just when.

Q. Can you approximate it—was it within a year?

A. The ship was not running a year at that time.

Q. Was it within six months?

A. Yes, sir; I guess it was; it must have been.

Q. Do you remember the occasion of doing it?

A. No.

Q. Do you remember doing it at all?

A. Yes, sir.

Q. Did you do it?

A. Yes, sir; that is, I would not say I did it on that exact course, but I do it every opportunity I get. [573—452]

Q. But I am talking about this particular course; did you ever do it on this particular course, within a degree or two? Of course, if you don't remember, you can say so.

A. Well, I don't remember just exactly.

Q. Do you remember anyone who has done it on this particular course? A. No.

Q. So your testimony is more of an estimate, is it not, than an actual statement of fact?

A. No, I did not say so.

Q. What do you mean by "did not say so"?

A. Well, I told you I didn't remember on that particular course.

Q. You also stated on your direct examination, that the deviation is 4 degrees easterly? A. Yes, sir.

Q. Now, I say that that is more of an estimate on your part than a statement of actual fact from per-

(Testimony of R. B. Seike.)

sonal knowledge? A. On that particular 71, yes.

Q. How near the light-ship did you make your turn to the entrance—within a couple of hundred feet?

A. Oh, I will say a quarter of a mile.

Q. A quarter of a mile?

A. About a quarter of a mile.

Q. You could see the light-ship? A. Yes, sir.

Q. It was foggy then? A. It was.

Q. You spoke of meeting a Revenue Cutter; was that near the light-ship? A. Yes, sir.

Q. You didn't slow down then, did you?

A. Yes. I believe we stopped then.

Q. You believe you stopped?

A. I am not quite certain of that.

Q. Why did you stop?

Mr. DENMAN.—Please enter in the record that counsel for [574—453] the "Selja here examines the log.

Mr. McCLANAHAN.—Mr. Denman, I object to your putting in things that happen outside of the record, things that suit you and leaving out things that do not suit you.

Mr. DENMAN.—Well, you can put those in.

Mr. McCLANAHAN.—When I pick up a book and examine it, and you think it is advantageous to you to have it put in the record that I examined it, you put it in.

Mr. DENMAN.—Well, it is just like your 20-minute remark that you made.

Mr. McCLANAHAN.—Q. Answer the question.

A. To speak to the Revenue Cutter.

(Testimony of R. B. Seike.)

Q. Why did you want to speak to the Revenue Cutter? A. I didn't want to speak to her.

Q. Who did?

A. I guess she wanted to speak to us.

Q. Did you hear the whistles of the Revenue Cutter before you saw her? A. Yes.

Q. How far was she when she came in sight?

A. About half a mile, I should judge.

Q. And when did you stop?

A. Just about that time.

Q. When you first saw her?

A. No, I think we stopped before we saw her.

Q. How many whistles did you hear?

A. I don't remember.

Q. Several? A. Several, yes.

Q. When you heard the first whistle, did you stop?

A. I don't remember. I don't know that I was on the bridge when I heard the first whistle. I was back and forth from the bridge.

Q. And you don't know whether you stopped your engine at that time? [575—454]

A. I don't know the exact minute the engines were stopped.

Q. Can you not tell me whether you know whether they were stopped when you heard the first whistle from the Revenue Cutter?

A. I don't know whether I was on the bridge at that time, or not.

Q. How did you know to stop? You say the Revenue Cutter wanted to speak to you; how did she manifest her desire to have you stop?

(Testimony of R. B. Seike.)

Mr. DENMAN.—Do you mean stop the engines or stop the ship?

Mr. McCLANAHAN.—I don't know what he means.

Q. Do you understand what I mean?

A. No, I do not.

Q. I understand you stopped because you understood the Revenue Cutter wanted to speak to you.

A. Yes, sir.

Q. And how did you find out she wanted to speak to you?

A. I think he hailed us with a megaphone.

Q. And that is what caused you to stop? A. No.

Q. What caused you to stop?

A. She crossed our bow.

Q. Is that what caused you to stop?

A. I suppose so. I was not on the bridge when I first heard her or saw her.

Q. What are we to understand from your testimony? Are you giving testimony that you know of or that you heard of?

A. I am giving you testimony that I know of when I was on the bridge, otherwise I cannot tell you.

Q. Then you don't know anything about the stopping for the "McCullough"—for the Revenue Cutter.

A. I do know that we stopped for the "McCullough."

Q. You were not on the bridge?

A. I was, at times.

Q. Were you on the bridge when they called you through the megaphone? [576—455]

(Testimony of R. B. Seike.)

A. Yes, I heard the captain calling through the megaphone.

Q. What did he say?

A. I don't know what he said. I think he asked if we wanted any assistance.

Q. Did you have any distress signals up?

A. No.

Q. Then how did he know you wanted any assistance? A. I don't know.

Q. Where was the first whistle you heard from the Revenue Cutter?

A. The first one I heard was about ahead.

Q. And yet when you came in sight of her she was crossing your bow?

A. She had already crossed our bow.

Q. And had gone on to the starboard?

A. Yes, sir.

Q. Did you have any communication with the Revenue Cutter after you stopped?

A. I believe the captain did.

Q. You don't know what it was, do you?

A. I don't remember what it was.

Q. What were you doing in your cabin, in your room? A. I was lying down.

Q. What doing? A. Lying down.

Q. Asleep? A. No, not asleep.

Q. Reading? A. No, trying to go to sleep.

Q. Trying to go to sleep? A. Yes, sir.

Q. And you were lying down trying to go to sleep for half an hour before the collision?

A. Yes, sir; that is, I was lying down about half

(Testimony of R. B. Seike.)

an hour before the collision.

Q. And you tried to go to sleep? A. Yes, sir.

Q. You don't go to sleep very easily, do you?

A. Not very easy.

Q. You don't know very much, then, about the swell while you [577—456] were lying down trying to go to sleep, do you? A. Yes, sir.

Q. How do you get your knowledge?

A. From the motion of the ship while I was lying down, and before I went into my room and after I got out.

Q. You said the swell striking the "Beaver" on the beam in the North Channel would not affect her speed? A. No.

Q. It would not affect her speed if she was headed into the swell, would it? A. Yes, sir.

Q. Without wind? A. Yes, sir.

Q. How would it affect the speed? What would be the means that would cause the "Beaver" to be affected in her speed?

A. The swell striking the bow and going through one swell down into the other one she would hit it pretty hard and that would raise the stern up; the bow going down would raise the stern close up to the surface of the water.

Q. So the effect would be on the propeller?

A. Not altogether, no.

Q. Would it be on the structure of the ship?

A. It would be on the bow.

Q. That is the structure of the ship, is it not?

A. Yes.

(Testimony of R. B. Seike.)

Q. Is that effect the same effect that a sea would have as distinguished from a swell? Would a sea affect the "Beaver's" speed without wind?

A. Yes, sir.

Q. In the same way? A. Yes, sir.

Mr. DENMAN.—A sea without wind?

Mr. McCLANAHAN.—Q. A sea without wind?

A. Yes, sir.

Q. It would affect the "Beaver's" speed?

A. Yes, sir.

Q. That is your best belief in the matter?

A. Yes, sir.

Q. Irrespective of the exposure of the propeller?

A. Yes, sir. [578—457]

Q. You don't know that from actual experiment, do you? A. I do.

Q. What have you experimented with in that respect?

A. Well, I have been in a good many ships on the coast bucking the seas.

Q. Did you ever take a block of wood and put it on the crest of a wave when there was no wind?

A. I have not put it on but I have seen wood floating in the ocean.

Q. Have you ever seen it move with the wave?

A. Yes, sir.

Q. With no wind? A. No wind.

Q. Did you ever put a block of wood on the crest of a swell when there was no wind and see it move on the crest of the swell?

A. I never actually put it there, but I have seen it there.

(Testimony of R. B. Seike.)

Q. And you have seen it move with the crest of the swell? A. Yes, sir.

Q. You did not see these ships come together, did you? A. No.

Q. You didn't hear any whistles?

A. No, not that I remember of until after I sat up in bed.

Q. What whistle did you hear then?

A. I heard our whistle blowing and I heard another whistle blowing.

Q. That was when?

A. Just immediately before the collision.

Q. How many whistles did you hear from the other ship? A. I don't remember that.

Q. You heard one? A. I don't remember that.

Q. I say you heard one?

A. I heard a whistle blowing. [579—458]

Q. And then you heard your own whistle blowing? A. Yes, sir.

Q. That was before the collision?

A. Before the collision.

Q. Was your whistle on your ship your regular fog-whistle? A. Yes, sir.

Q. And this other whistle was a regular fog whistle, so far as you know?

A. Oh, no, I would not say that; it was just only a few seconds before the collision that I heard the other whistle.

Q. It was a regular fog-whistle, it was one whistle? A. I don't know what it was.

Q. You know what a fog-whistle is, don't you?

(Testimony of R. B. Seike.)

A. Yes.

Q. It is one whistle? A. Yes.

Q. One whistle from a steamer, and it is a long one? A. Yes, sir.

Q. That is the kind of a whistle you heard?

A. I don't know. I heard a whistle, that is all; I don't know what they were blowing it for.

Q. But you heard a whistle?

A. I heard a whistle blowing.

Q. Did you hear more than one from the other ship? A. I don't remember.

Q. Where is your room on the ship?

A. On the upper deck.

Q. How far aft of the bridge?

A. Next to the captain's room.

Q. How far aft of the bridge?

A. The captain's room is under the bridge and mine is next to it.

Q. What side of the ship is your room on?

A. On the starboard side. [580—459]

Redirect Examination.

Mr. DENMAN.—Q. How was the "Selja" pointing when she sank, with reference to the swell?

Mr. McCLANAHAN.—You asked that on your direct examination; that was one of your first questions.

Mr. DENMAN.—Q. How was she pointing at the time she sank, with reference to the swell?

A. She was almost head into the swell.

Q. What is the effect on the log when the vessel is heading into the swell with reference to the speed

(Testimony of R. B. Seike.)

shown by the log and the actual speed of the ship; does it over-run or does it under-run, or is it the same as the ship? A. It over-runs.

Q. And when the vessel is going with the swell how will the log act? A. It generally under-runs.

Q. Is that generally true in regard to all logs?

A. Yes, sir.

Q. About what would you expect the log to over-run the vessel in such a sea as you had prior to the time of the collision?

A. About from three-quarters of a mile to a mile an hour.

Q. That is a matter of estimate that will vary with different seas?

A. Oh, yes, it varies with different conditions of weather.

Q. How much would you estimate the swell would affect the "Beaver," assuming that in a smooth sea she would run 15 knots, in a sea such as it was about the time of the collision, I will say in a swell such as it was; about how much would you allow for the checking of the swell on the speed of the vessel?

A. In the neighborhood of about 3 miles an hour.

Q. That again is an estimate based on different seas? [581—460] A. On actual experience.

Q. And varying in different conditions?

A. Yes, sir.

Recross-examination.

Mr. McCLANAHAN.—Q. There was no wind that day, was there?

A. Not to amount to anything.

(Testimony of R. B. Seike.)

Q. A smooth long swell?

A. No, it was not a smooth long swell, it was quite a heavy swell, but there was not a great deal of wind.

Q. Well, the surface was smooth?

A. Do you mean the surface was glassy?

Q. I didn't say glassy; I said smooth.

A. Well, it was not smooth.

Q. Well, what was it?

A. There was a heavy swell.

Q. With reference to the surface what was it?

A. There was a little wind but there was not a great deal. I would say there was probably a breeze of from 4 to 5 miles an hour.

Q. If your log's variation or deviation from the speed of the ship is dependent upon the varying conditions of the sea it is not a reliable log, is it?

A. Yes.

Q. Can you tell from your log just what speed the vessel is making?

A. You can calculate pretty close.

Q. But it is not always reliable, is it, if it varies with every varying condition of sea?

A. Just as reliable as you can make it.

Q. I would like to know something about this log: do you know what kind of a log it is?

A. A Bliss log.

Q. A sort of propeller, is it not? It acts like a propeller? A. Yes.

Q. Records at the receiving end of the ship, does it? [582—461]

(Testimony of R. B. Seike.)

A. It records at the end, yes, sir.

Q. If there is no pressure on the propeller there is no record at the end of the ship, is there?

A. What do you mean by "pressure"?

Q. If there is no pressure on the log there is no record on the ship; that is, the contact and the pressure upon the water is what makes the log revolve, is it not?

A. The rotator, as we call it, going through the water.

Q. That is what makes it rotate? A. Yes, sir.

Q. And if you take it out of the water it does not rotate, does it? A. No, sir.

Q. And therefore it does not record?

A. No, sir.

Q. Why do you say that the log will over-run when the ship is heading into a head sea or a swell; what makes it over-run?

A. The force of the swell going against it.

Q. Not the cessation of the rotation caused by taking the log out of the water? A. No, sir.

Q. But every sea that is a strong sea striking the log makes it rotate faster than the speed of the ship?

A. Yes.

Q. Where did you get this information—from experience? A. From experience.

Q. With this particular log on the "Beaver"?

A. This one, yes, sir.

Q. No other log? A. Yes.

Q. All logs do that, do they?

A. All that I have met with, as a rule.

(Testimony of R. B. Seike.)

Q. So that no logs are absolutely reliable; you have to reckon with the sea conditions in order to tell the speed of the ship?

A. Yes, to a certain extent. [583—462]

Q. How do you figure that there was an increase as shown by the log of three-quarters of a knot per hour over the speed of the ship on this occasion?

A. I did not say that.

Q. What did you say?

A. I said from three-quarters of a mile to mile, about.

Q. How do you figure that?

A. According to the condition of the swell.

Q. How can you judge?

A. That is a matter of judgment.

Q. How can you judge of the force of the swell? What is your judgment worth? Is it worth anything? A. I think so.

Q. Tell us upon what it is based.

A. On my years of experience.

Q. You could from your years of experience look at a swell and tell its force against a log—approximately? A. Yes, approximately.

Q. Can other seamen do that, that you know of?

A. They can if they watch it pretty closely.

Q. Watch it pretty closely—watch what pretty closely, the swell or the log? A. Both.

Q. And it is your honest judgment that you can tell the force of the sea against the log approximately so as to be able to tell how much the log is over-running the speed of the ship?

(Testimony of R. B. Seike.)

A. After I become familiar with it.

Q. With the log? A. The log and the ship.

Q. What has the ship got to do with it?

A. She has a lot to do with it.

Q. Why?

A. Because ships are not all built alike.

Q. What has it to do with the force of the swell against the log so the log will over-run? I understand from you that it is the force of the swell against the log that makes it [584—463] rotate faster. What has the ship to do with that? You are mistaken there, are you not?

A. I don't think I understand that properly. I don't think I understood you properly if I am mistaken.

Q. I understood you to say you had to know the log as well as the ship in order to pass judgment on the matter as to how much the log exceeds the speed of the ship; now, I ask you what the ship has to do with it.

Mr. DENMAN.—He said he had to know about the speed of the ship.

A. Sometimes it depends on the speed of the ship. You may be dragging your log through the water three or four miles an hour or you may be dragging it twelve miles an hour.

Mr. McCLANAHAN.—Q. But you still have the force of the sea against the log, no matter how fast the ship is going, have you not? A. Yes, sir.

Q. And that force causes the log to rotate faster?

A. Yes.

(Testimony of R. B. Seike.)

Q. And that accounts for the change?

A. Yes, sir.

Q. How can the ship or the speed of the ship have anything to do with that?

A. You are going over more ground in a faster ship, you are going through more swells in a faster ship; if you stand still for an hour your log won't go through as many swells as if you are running 15 miles an hour.

Q. So the faster your ship goes the greater the difference between the speed of the log and the speed of the ship; is that your idea? A. Yes, sir.

Q. And the slower it goes the less the difference?

A. Yes, sir. [585—464]

Q. So that besides the condition of the sea you have the condition of the ship to deal with in determining the speed of the ship as shown by the log: Is that correct? A. Yes, sir.

Q. That makes it all the more uncertain as to whether the log is reliable, does it not, as a determining factor in the speed of the ship?

A. I would not say that it made it any more uncertain.

Further Redirect Examination.

Mr. DENMAN.—Q. Does the log, to a certain extent follow the movement of the waves on the surface? A. Yes, sir.

Q. Then in a rough sea it would have to follow further if following a contour than if following a straight line?

A. Yes, sir, it would have to go up and down on

(Testimony of R. B. Seike.)

the hollow of the sea.

Q. That would make an additional distance that the log travelled and that the ship did not?

A. Yes, sir.

Q. What does the phrase "the log coming home on the sea" mean?

A. That means it throws the log to the ship; a log in that condition will under-run.

Q. That is, on the following sea?

A. On the following sea.

Further Recross-examination.

Mr. McCLANAHAN.—Q. That is because the ship is making less speed than the momentum which forces the log along caused by the sea itself, is it not?

A. I don't understand you.

Q. This phrase that you have had put to you, "the log coming home on the sea," you say that that means that the ship is going faster than the log?

A. Yes, sir.

Q. What makes that?

A. The swell throws the log toward the ship. [586—465]

Q. And does not affect the ship?

A. It affects the ship.

Q. Does it not affect it in the same way as it does the log? A. I don't understand you.

Q. Does not the swell affect the ship in the same way that it affects the log?

A. You mean to throw the ship ahead?

Q. Well, can't you answer that question without asking me one?

(Testimony of R. B. Seike.)

A. I don't really understand the question.

Q. You say that the log is affected by the swell throwing it faster than the ship is going?

Mr. DENMAN.—He said the sea.

Mr. McCLANAHAN.—Q. Well, the sea or the swell. A. Yes, sir.

Q. I ask you if the sea or the swell does not affect the ship in the same way?

A. Yes, sir, it ought to.

Q. How can there be any difference in the speed of the log under those circumstances? Why should the speed of the log be affected?

A. Well, the sea will throw the rotator further than it will throw the ship; the rotator is only a little light instrument; if there is any sea there it will throw it easier than it will throw the ship.

Q. You think the log in a head sea or a head swell travels over more ground than the ship?

A. I do.

Q. Is the log line always taut under those circumstances in a head sea with the ship travelling ahead?

A. Yes, sir, always taut; that is, it will hang down in a bight.

Q. It is taut, is it not? Do you know what I mean by "taut"?

A. I know what you mean by "taut," but when a thing is taut it has a strain on it.

Q. Would you call the condition of the log line under [587—466] normal conditions — what would you call it—wouldn't you call it taut?

A. Yes, sir.

(Testimony of R. B. Seike.)

Q. Is not the log line always taut when the ship is heading into a head sea?

A. The strain on the log line will vary some running into a head sea.

Q. Although the log itself is submerged?

A. Yes, sir.

Q. What makes that?

A. When the swell strikes the bow of a ship it retards her speed and the weight will cause the line to drop a little.

Q. As the speed of the ship drops? A. Yes.

Q. So that the log then and the ship are in harmony, are they not? A. Not always; no.

Q. You think the log would drop more than the ship. If the speed of the ship is affected by the swell or the head sea, is not the log affected the same way? A. Probably not at the same instant.

Q. Well, ultimately in the same way?

A. Yes, sir.

Q. Then why should there be any difference between the speed of the ship and the speed of the log?

A. Because if the swell strikes the rotator it makes it revolve more.

Q. Well, I guess, Mr. Seike, we cannot get any nearer together than that.

Further Redirect Examination.

Mr. DENMAN.—Q. Let me ask you: Have you ever experienced this, where the following sea would throw the log out of the water?

A. No, I never saw it thrown out of the water.

(Testimony of R. B. Seike.)

Q. You never have seen it thrown out of the water?

A. Not in a following sea, no. [588—467]

Q. You had a good many questions asked you as to the theoretical reasons why the log over-runs the ship in heading into a sea; now, setting aside the theory, what is your actual experience with regard to that, have you found that it does over-run or does not over-run?

A. It does over-run in head sea.

Q. And how long have you been First Officer on the "Beaver"?

A. Since she came out from the East, a little over a year now.

Q. Has that been your experience as First Officer during all that time and has that been your experience with the log during all that time?

A. Yes, sir.

Q. Have you observed the matter frequently?

A. Yes, sir.

Q. Made frequent observations of it?

A. Yes, sir.

Q. You base your navigation of the vessel on that, don't you? A. Yes, sir.

(Thereupon an adjournment was taken to a day hereafter to be agreed upon.) [589—468]

Tuesday, July 18th, 1911.

[Testimony of A. J. Frey, for Claimant (Recalled).]

A. J. FREY, recalled for the "Beaver":

Mr. DENMAN.—Q. You have been sworn before, I believe, Mr. Frey? A. Yes, sir.

(Testimony of A. J. Frey.)

Q. Do you know the Portland-Asiatic Steamship Company? A. Yes, sir.

Q. What, if any, relationship do you bear to that company?

A. I am the Assistant to the Vice-President and General Manager of that company.

Q. Have you offices in San Francisco?

A. Yes, sir.

Q. Were you present in the offices of the company on the day after the collision between the "Beaver" and the "Selja"? A. Yes, sir.

Q. That was about November 22, 1910?

A. I think that was the date, yes.

Mr. McCLANAHAN.—November 23?

Mr. DENMAN.—Yes, the 23d. The collision was about November 22.

Q. What, if any, relationship did the "Selja" have to the Portland-Asiatic Steamship Company?

A. She was under charter to the Portland-Asiatic Steamship Company.

Q. Did the captain of the "Selja" make any report to you upon this day? A. Yes, he did.

Q. What was the nature of that report?

A. Well, he simply called at the office between 10 and 11 in the morning, as I remember it, and had a general conversation regarding the accident of the day before. [590—469]

Q. Can you describe what he said? Do you recall it?

A. As I recollect now, the conversation started by his saying that he heard the whistle of the steamer

(Testimony of A. J. Frey.)

which he afterwards found was the "Beaver" some 15 minutes before the collision.

Q. Did you make any memorandum of this conversation at that time?

A. I dictated a memorandum just as soon as Captain Lie left the office.

Q. Have you got that memorandum?

A. Yes, sir.

Q. Will that be of any aid in refreshing your memory as to what occurred?

A. I think that might as well be put in the record, had it not? (Handing.)

Mr. McCLANAHAN.—Let me see it. (After reading.) Let me ask Mr. Frey a few questions in reference to this, it will save time perhaps.

Q. I understand that this is the embodiment of the conversation and it is the result of the talk between you and Captain Lie? A. That is correct.

Q. You asking him questions and he replying?

A. Yes.

Q. Where you wanted enlightenment on the different aspects of the situation you would ask him about that and he would reply? A. That is correct.

Q. In other words, you suggested at times what you wanted to know about?

A. No, I did not. Why should I suggest?

Q. You just said you did. A. No, I did not.

Mr. McCLANAHAN.—I will ask the Reporter to read the last few questions and answers.

(Record read by the Reporter.)

(Testimony of A. J. Frey.)

A. (Continuing.) I misunderstood you. [591—470]

Q. You suggested at times the matter that you wanted information about?

A. Well, I asked him the question. That is very plain English.

Q. You asked him the question or questions?

A. I asked him a question at one time.

Q. What was it? Oh, you mean one at a time?

A. One at a time.

Q. You did not have this taken down by a stenographer at the time of the conversation?

A. I did not, no.

Q. After he was gone this was the impression that the conversation left upon your mind?

A. That is correct.

Mr. McCLANAHAN.—I think we have no objection to having it understood that Mr. Frey will testify along the lines of the memorandum. That will save time.

The WITNESS.—I want to make this clear, that that was dictated to my stenographer just as soon as Captain Lie left the office, immediately after he left the office.

Mr. McCLANAHAN.—That appears now three times in your statement.

Mr. DENMAN.—That is offered in evidence.

The COMMISSIONER.—That will be marked Respondents' Exhibit "B."

(The document was here marked by the Commissioner Respondents' Exhibit "B" and is as follows:)

"MEMORANDUM OF CONVERSATION BETWEEN O. LIE, COMMANDER OF THE S. S. 'SELJA' AND A. J. FREY, ON NOVEMBER 23d, 1910, A. M.

Captain Lie stated that he heard the whistles of the 'Beaver' about fifteen minutes before the collision; that the 'Selja,' at that time was going ahead under about fifty revolutions (or approximately 5 to 6 knots) and that about [592—471] five minutes after hearing the 'Beaver's' whistles the engines were stopped altogether and the ship went ahead under her own momentum.

Captain Lie states it was very thick and he could see only about two ship's lengths, and that about two minutes elapsed between the time he saw the 'Beaver' and the time of the collision. That as soon as he saw the 'Beaver' he ordered his engines full speed astern, and the 'Selja' had just begun to back when the collision occurred. It is his impression that the 'Beaver' at the time of the collision was going ahead at a rate of about ten knots, but he feels assured that this was due to the ship's momentum and not to any engine power, and it is his belief that the 'Beaver's' engines had been stopped or reversed at that time.

He says the 'Beaver' struck the 'Selja' either in the extreme forward part of the main hold or at the bulkhead between the forehold and the main hold, and that the 'Beaver' forced her way into the 'Selja' about ten to twelve feet and that the ships hugged only *a* for a moment and the 'Beaver' then backed away from the 'Selja.' He states that there was a

(Testimony of A. J. Frey.)

very heavy swell at the time of the accident, and one of these swells picked up the 'Selja' immediately prior to the collision, and threw her broadside in the direction of the 'Beaver,' then passed on and picked up the 'Beaver,' and both the 'Selja' and the 'Beaver' were forced into the trough of the sea towards each other. It is Captain Lie's belief that the impact was materially accelerated because of this.

Captain Lie states that the 'Selja' cost £50,000 and was fully insured. [593—472]

He states that she had 3900 tons (measurement tons) for San Francisco; 800 measurement tons for Portland; of which 560 tons was sulphur, 400 tons chow, 1500 tons matting, 200 tons tea, one or two cases of silk goods, and the balance curios, crockery and miscellaneous material.

A. J. FREY."

Mr. DENMAN.—Q. Did you receive the reports of any other officers?

A. I had a conversation with the Chief Engineer, Eggen, December 1st, I think it was, of which I also have a memorandum here.

Mr. McCLANAHAN.—We object to any conversation between the witness and the chief officer—oh, he was of the "Selja," was he?

Mr. DENMAN.—Yes.

Mr. McCLANAHAN.—Oh, I beg your pardon.

The WITNESS.—That was on December 1st.

Mr. DENMAN.—I will hand this to you for inspection, Mr. McClanahan. I offer it in evidence.

Mr. McCLANAHAN.—I object to it going in evi-

(Testimony of A. J. Frey.)

dence, with the bottom memorandum upon it.

Mr. DENMAN.—Well, then, it is stipulated that the following may be read into the record as a memorandum of Mr. Frey's interview with Mr. Eggen when he reported to him in his office in San Francisco.

"Mr. Eggen stated to me to-day that prior to 3:00 P. M. on November 22nd, 1910, the 'Selja' had been running under forty revolutions. That at 3:00 P. M. this had been reduced to twenty revolutions, which would give the ship a speed of 3 to 3½ knots. He stated that the normal steam pressure [594—473] was 180 lbs., but that during the time they were under reduced speed it had varied from 160 to 170 pounds. He stated that the engines were stopped prior to the collision for fully five minutes before the full speed astern signal had been given, immediately prior to the collision. That, as the ship had been going under 20 revolutions prior to the engines being stopped, the ship should come to a dead stop in the water under these conditions within one or one and a half minutes, and that he was satisfied the ship had been dead in the water at least three minutes or slightly more prior to the time that the astern order was given.

In reply to the query as to how long it would take with the ship dead in the water to get the ship going astern under full speed astern order, Chief Engineer Eggen stated that it would take but a very few moments as the ship was very quick to respond.

A. J. FREY."

(Testimony of A. J. Frey.)

Q. Mr. Eggen was the chief engineer of the "Selja," was he not? A. Yes, sir, that is correct.

Cross-examination.

Mr. McCLANAHAN.—Q. With reference to the Eggen memorandum, do you remember what time of day it was that Mr. Eggen was in your office, Mr. Frey? In the morning, was it not?

A. Was not December 1st the day upon which the testimony was taken in your office?

Q. That is my impression.

A. My recollection is that I told Mr. Eggen, when we left your office about one o'clock I think it was that day, to drop in to [595—474] my office before he left, and my recollection is that he was in the office that afternoon. He was there several times.

Q. You remember his testifying in my office, do you not? A. Yes.

Q. Was it before or after his testimony?

A. My recollection is, if December 1st is the date that the testimony was taken in your office, which is my recollection that it was, then he was in my office in the afternoon.

Q. And he had already testified then?

A. That is my recollection. That can be verified by the date the testimony was taken in your office. I would not be positive about that.

Q. But if it was on December 1st, your recollection is that after giving the testimony he had this interview with you? A. Yes, sir.

Q. What was the purpose of calling him to your office?

(Testimony of A. J. Frey.)

A. The Portland-Asiatic Steamship Company gives a voyage bonus to its officers and all the officers of the "Selja" came up to the office that day before leaving for Norway to get the bonuses.

Q. I thought you said you asked him to come to the office?

A. Well, I asked him to come to the office, yes.

Q. What was the purpose of your asking him?

A. Because I wanted to get certain information out of him.

Q. After he had testified?

A. Well, if that was the date of the testimony.

Q. We are now assuming that it was.

A. Assuming that it was, yes.

Q. That is my recollection and it is yours?

A. Yes, sir.

Q. He had then already testified within your hearing, had he not? [596—475]

A. Yes, I guess it was within my hearing.

Q. What did you want to get out of him, aside from his sworn testimony—a statement that differed from that testimony?

A. Oh, I don't know; I didn't suggest any answers to him, if that's what your question is.

Q. Don't you know that all the time and practically the facts covered by your memorandum of the conversation with Eggen were testified to by him in my office when you were present?

A. Well, I am not sure that I was present, Mr. McClanahan, when the chief engineer's testimony was taken. You must bear in mind that I did not come

(Testimony of A. J. Frey.)

in that day until I think after 11 o'clock. I would not be sure about that.

Q. Whose testimony did you hear then in my office?

A. I heard the testimony of—who was that little fellow, was he the third officer?

Q. Yes.

A. I heard his testimony. I remember that very plainly.

Q. Did you hear no other?

A. I could not say now. I could not repeat the testimony at this stage of the game.

Q. Do I understand, Mr. Frey, that after this engineer had given his sworn testimony in this case you deliberately invited him up to your office to secure further testimony—further evidence and facts that you are now producing in this trial?

A. Well, I will refuse to answer that question, Mr. McClanahan, until the day of the taking of the testimony in your office is developed.

Q. Well, we can develop that. Mr. Brown, may we have the testimony? Are you satisfied, Mr. Frey, that the testimony of the officers was taken on December 2, 1910? [597—476] A. Yes.

Q. So that this memorandum was made by you on December 1st, the day before the testimony was taken? A. The day prior.

Q. At that time, Mr. Frey, the answer of the claimant in this case had not been filed, had it?

A. That I cannot answer.

Q. Well, we can get the pleadings.

Mr. DENMAN.—That is the fact, the answer was

(Testimony of A. J. Frey.)

not filed until a long time afterwards.

Mr. McCLANAHAN.—Q. Refreshing your memory by an inspection of the answer filed in this case, Mr. Frey, answer my question, please. A. No.

Q. In the taking of the evidence of the officers of the "Selja," on December 2, 1910, Mr. Eggen being one of the officers I refer to, who were your attorneys?

A. Represented by Page, McCutchen & Knight, and William Denman. Are you speaking of the San Francisco-Portland or the Portland-Asiatic?

Q. I am speaking of the claimant in the suit brought by Olaf Lie vs. The "Beaver."

A. I don't understand your question.

Q. Well, what is the matter with the question?

Mr. DENMAN.—Q. Do you know who the claimant is?

A. I just answered I understood that was the Portland-Asiatic Steamship Company.

Mr. McCLANAHAN.—Q. You mean to say the Portland-Asiatic Steamship Company are the claimants of the "Beaver?"

A. The claimants of the "Beaver"?

Q. Yes.

A. That is not the way I understood the question. [598—477]

Q. Who were the claimants?

A. The San Francisco Portland Steamship Company.

Q. Who were the attorneys at that hearing for the claimant?

(Testimony of A. J. Frey.)

A. Page, McCutchen & Knight and William Denman.

Q. They were employed immediately after the collision, were they not?

A. Shortly after the collision, not immediately.

Q. What would you say "shortly" meant—how many days? A. Well, within three days.

Q. About November 25th that would be; was it about that time?

A. November 25th was a holiday, I think; approximately that date; one day one way or the other.

Q. Did you secure this statement from Mr. Eggen at the suggestion of either of your counsel?

A. I did not.

Q. Was it on your own initiative?

A. Absolutely.

Q. And for the purposes of this suit?

A. I simply had a conversation with Mr. Eggen and asked him certain questions which brought forth those answers and I made a memorandum at the time so as to have the matter of record in case the statements should subsequently prove of any value.

Q. Well, you had in mind the use of his statements to you in this case, if necessary?

A. For possible use, yes.

Q. And, as a matter of fact, you did make use of the statement in the drawing of your answer, did you not? A. Yes—in the what, did you say?

Q. I say in the drawing of your answer.

Mr. DENMAN.—There is no testimony that he drew his answer.

(Testimony of A. J. Frey.)

Mr. McCLANAHAN.—Q. I am asking him the question. What [599—478] have you got to say to that, Mr. Frey?

A. Well, I cannot answer that.

Q. That is, you don't know? A. I don't know.

Q. You don't know whether the information furnished by Eggen, or any part of it, was used by you or your counsel in the drawing of the answer?

A. I don't know.

Q. You now have introduced this in evidence, and I presume that you think it is of some value to your case, to your defense; am I correct?

A. That is probably correct, yes, sir.

Q. What is there in this statement that you deem advantageous to your case?

A. In the Eggen statement do you mean?

Q. Yes.

A. Well, I think it brings out one point and that is, that the "Selja" seems to have been stopped dead in the water for some considerable period prior to the collision.

Q. And it brings out another point, does it not, which is an advantageous point for you, namely, that it was at 3 o'clock, according to Mr. Eggen's statement, that the revolutions were reduced to twenty; do you recognize that?

A. Yes, which is in direct—so far as the number of revolutions are concerned—in direct contradiction of the statement of the captain.

Q. Is it not also a direct contradiction of Mr. Eggen's own statement made on December 2d?

(Testimony of A. J. Frey.)

A. That I don't know.

Q. You don't remember that?

A. I don't remember what his testimony was about that.

Q. Do you think of any other statements contained in Mr. Eggen's memorandum that are advantageous to your case as you would see it?

A. No. I think those are about the only two [600—479] points in there, except the question I asked him, namely, how long it would take to bring the ship to a dead stop in the water after she had been running at that speed. Those are the only three material points in it.

Q. Well, you recognize as a practical man, that Mr. Eggen being an engineer did not know much about that, do you not? A. About what?

Q. How long the ship would take to stop.

A. He should know.

Q. Why—being an engineer?

A. I don't know who would know if he did not know. Who should know?

Q. Well, I don't want to answer your question, but how is the engineer going to know how long it will take his ship to stop?

A. Well, if he has any interest in his department at all he certainly would at some time or other satisfy himself how quickly he could stop his ship.

Q. Do you think most engineers know that?

A. They ought to know it.

Q. Don't you know that it is a very difficult matter

(Testimony of A. J. Frey.)

to know how long a ship will run under her own momentum?

A. Difficult in what way, to determine the exact moment of stoppage?

Q. Yes. A. Yes, sir.

Q. Very difficult, is it not?

A. It is difficult, yes.

Q. Do you think an engineer could determine that?

A. He could determine it approximately.

Q. How would he do it?

A. He could determine it approximately; he could form his opinion if he was on deck and the engine-room [601—480] was in charge of one of his assistants and the order is given to stop the engines, he could form some opinion; he might not get it down to a second, or down to a quarter of a minute, but he could form his opinion as to when the ship would come to a stop.

Q. That is, by looking over the side?

A. Yes, sir.

Q. And that would be the only way?

A. That would be the only way that I know of.

Q. That opinion would not be of any greater value in coming from the engineer than from you, would it, or from a layman or a landsman?

A. You mean if I were there?

Q. Yes. A. No, I don't suppose so.

Q. You could pass your judgment just as well as the Chief Engineer could? A. Certainly.

Q. Do you see in this statement and in the evidence given by Mr. Eggen any discrepancy?

(Testimony of A. J. Frey.)

A. Well, I have never seen the transcript of the evidence of any of those officers.

Q. Well, you heard the testimony, did you not?

A. I heard the testimony, yes, sir.

Q. Do you remember any discrepancy between the testimony of Eggen and the statement made?

A. Not at this moment, no.

Q. You cannot remember any? A. No.

Q. Don't you know that he said that the vessel was making 6 knots, 40 turns, at 3 o'clock?

A. No, I don't remember that.

Q. Don't you remember that he also testified that at 3:05 o'clock the engines were put slow, at a slow bell? A. I don't remember that definitely, no.

Q. Did you ever show this to your counsel, this memorandum which you have introduced in evidence? [602—481]

A. I don't know whether I showed that Eggen statement to Mr. Denman. It was never shown to Mr. Page, but it was spoken of to Mr. Denman some two or three weeks after the collision, as I recollect now.

Q. Look after Mr. Eggen had given his testimony?

A. That is my recollection.

Q. You did not speak to Mr. Denman about it before Mr. Eggen gave his testimony?

A. No, I do not think so.

Q. You knew that Mr. Eggen was going away, did you not?

A. I knew it the afternoon he was leaving.

Q. You knew when he gave his testimony, that he

(Testimony of A. J. Frey.)

was going away, did you not? A. No, I did not.

Q. When did you first learn he was going away?

A. I first learned it after the testimony was taken. I asked him the question.

Q. Did you not know that the testimony was taken in order to send these officers back to Norway?

A. I had no definite information about it. I asked Mr. Eggen when he was going away.

Q. When did you ask him that?

A. The afternoon of the day the testimony was taken. It was in the afternoon, yes.

Q. After he had given his testimony?

A. It must have been after he had given his testimony.

Q. And before that you did not know that these men were being examined because they were to be sent away to Norway?

A. Well, I understood in a general way that their statements were being taken with that point in view, but I did not know when they would leave. [603—482]

Q. And you knew we were anxious to get rid of them, did you not, to get them home?

A. Oh, yes, I understood that.

Q. And that their testimony was being taken for that purpose? A. Yes, I understood that.

Q. Don't you think it would have been fair to Mr. Eggen to have been confronted with any possible discrepancy between this statement and his evidence at the time his evidence was given in order that he

(Testimony of A. J. Frey.)

might deny it or affirm it or make explanations?

A. I don't know; I did not think that was necessary.

Q. You intended to save this until Mr. Eggen got away and then bring it into the case?

A. No, I had no intention at that time and no particular thing in view. I take a great many things that people come in the office there—our own employees who make certain statements, I take a memorandum of them.

Q. And you did not think it was necessary to turn this memorandum over to your counsel when they were cross-examining Mr. Eggen?

A. No, I did not.

Q. You had it at that time, did you not?

A. I must have had it, yes.

Q. You took it immediately after—

A. (Intg.) It was dictated immediately after. Whether it was actually received from the stenographer, I am not able to say.

Q. I believe you say you do not know whether the statement was used to furnish facts to your counsel in the drawing of the answer?

A. I cannot answer that; I don't know.

Q. You were familiar with the answer when it was drawn, were you not? A. No. [604—483]

Q. Why not? A. I had nothing to do with it.

Q. Why not? A. I did not sign any answer.

Q. I didn't say you did; were you familiar with it, whether you signed it or not? A. No.

Q. Did you see it?

(Testimony of A. J. Frey.)

A. I never saw it until this moment.

Q. There are certain facts set forth in the answer, are there not?

A. Why, I presume so. I have not had a chance to read it. I did not see it until a few moments ago.

Q. The answer is sworn to by Mr. Schwerin?

A. Yes, sir.

Q. Do you know where he got his information upon which the facts are sworn to?

A. I do not. I cannot answer for him.

Q. You were familiar and cognizant of the other answer filed in the freight suit, were you not?

A. If I could see the answer I could answer your question.

Q. I hand the witness the answer filed in the suit brought by the Portland & Asiatic Steamship Company vs. The San Francisco & Portland Steamship Company. A. Yes, I am familiar with it.

Q. Where did you get the facts that are contained in that answer?

A. These answers to the interrogatories?

Q. No, the answer itself.

A. That answer was drawn up by the attorneys and submitted to me; I had every reason to believe that those statements therein were correct; I read it carefully and I signed it.

Q. That answer was drawn by Mr. Page, was it not?

A. That I do not know. I presume so. The cover is marked "Page, McCutchen & Knight."

Q. You say you signed that answer but, as a mat-

(Testimony of A. J. Frey.)

ter of fact, you did not?

A. This one (indicating)? [605—484]

Q. Yes. A. Oh, yes.

Q. Look at it again and see whether you signed the answer.

A. Well, I guess I signed the interrogatories.

Q. That is, you verified the interrogatories?

A. Yes, sir.

Q. But the answer was unsigned?

A. It was signed by Page, McCutchen & Knight.

Q. The verification was waived? A. Yes, sir.

Q. You did not furnish Mr. Page, or the drawer of that answer, with any of the facts contained in the body of the answer, did you?

A. In the body of the answer, no.

Q. Do you know where they came from?

A. No, I do not.

Q. And you had nothing to do with furnishing the facts that are embodied in the answer filed in the original suit by the claimant, the San Francisco & Portland Steamship Company? A. No.

Q. You don't know where those facts came from?

A. No, I do not.

Q. Did you ever show Mr. Schwerin this statement of Eggen's? A. Have I shown it to him?

Q. Yes. A. No.

Q. So he did not get them from that statement?

A. No.

Q. Did you ever show him the statement of Captain Lie? A. No.

Q. Did you ever tell Mr. Schwerin the conversa-

(Testimony of A. J. Frey.)

tion you had with Captain Lie?

A. I think I told Mr. Schwerin right after he came back from the Orient, in December, 1910, when we were speaking over the case generally, that there was considerable difference of opinion on certain facts.

Q. What facts were those?

A. In regard to the speed of the [606—485] "Selja" and the length of time she had been stopped prior to the collision, and I might have mentioned incidentally that I had a statement from Captain Lie.

Q. But you did not tell him what the statement was? A. I did not go into it in detail; no.

Q. And you did not go into the details in the conversation, did you?

A. I do not think so. The conversation was very brief.

Q. So you do not know where the detailed facts in the original answer sworn to by Mr. Schwerin were obtained by Mr. Schwerin?

A. No, I cannot answer that.

Q. Or where he got knowledge of them?

A. No.

Q. Referring now to Captain Lie's memorandum, or rather, the memorandum of the conversation with Captain Lie, did you when you had your talk with Eggen refer to any discrepancy between his statement of the situation and Captain Lie's as it had been made? A. No, I did not.

Q. Did you know of any discrepancy at that time?

A. A discrepancy in regard to the number of

(Testimony of A. J. Frey.)

revolutions struck me right away.

Q. But you did not refer to it?

A. I did not refer to it, no.

Q. Any other discrepancy between the two statements?

A. That was the most glaring discrepancy. There was also a discrepancy in regard to speed.

Q. You did not refer to that? A. No.

Q. Did you have any particular purpose in mind when you refrained from referring to this discrepancy?

A. Well, I did not want to throw Eggen's answer in doubt at all by stating that I had a different statement from the Captain. [607—486]

Q. That is, it was your purpose to hold both men to their statements, so far as you could?

A. Yes, keep them entirely separate.

Q. Without being influenced one way or the other?

A. The only thing I did do when Eggen stated they were 20 revolutions, 3 to 3½ knots, I repeated the question and asked him if I understood his answer correctly. I questioned him to that extent.

Q. Do you remember what he testified as the speed she was making, in the examination on the following day? A. Do I remember what he testified to?

Q. Yes, do you remember his testimony?

A. No, I do not; I do not remember it at this moment.

Q. If there had been a discrepancy between his statement and the evidence given the next day, it was your purpose not to refer it to your counsel so that

(Testimony of A. J. Frey.)

they might cross-examine Eggen on it?

A. Well, as a matter of fact, to be perfectly frank about the thing, I certainly consider that the testimony given under oath would have more weight than a statement made in an informal way in my office. At that time I did not consider that these statements were any more than office memoranda.

Q. So that, then, you purposely refrained from suggesting to your counsel how his sworn evidence on direct examination might be repudiated or contradicted by statements which he had previously made to you?

A. I do not believe I had 50 words conversation that morning with Mr. Denman.

Q. When you had this conversation with Captain Lie, had you had [608—487] a prior conversation with Captain Kidston? A. No, I did not.

Q. When did you have your first conversation with Captain Kidston?

A. I don't think I saw Captain Kidston—my recollection is now that Captain Kidston did not come in until the following day. That is my recollection of it.

Q. What do you mean by the following day?

A. The collision was on November 21, was it not?

Q. On the 22d.

A. Well, then, it would be the 24th, the day following Captain Lie's call.

Q. Had you had no report from any officer of the "Beaver" as to the collision until the 24th of November?

(Testimony of A. J. Frey.)

A. I got a wireless report from Captain Kidston within 15 minutes after the collision took place.

Q. Where is that report?

A. That is in the office files.

Q. Can you produce it?

A. I can produce it, yes.

Q. Had you had no conversation with any of the officers? A. You mean of the ship?

Q. Yes. A. No.

Q. Until the 24th of November?

A. That is my recollection now. It is my recollection that Captain Kidston called the day following the day that Captain Lie called.

Q. Have you a present recollection of what this wireless was?

A. The substance of it was this: "Ran into steamer 'Selja' during a dense fog off Pt. Reyes. 'Selja' sank within 15 minutes, standing by to save officers and crew. Will return to port as soon as satisfied everybody is saved," or words to that effect. [609—488]

Q. Then I will not ask you to produce it. You knew Mr. Eggen to be a Norwegian, did you not?

A. Yes; that is I presumed he was a Norwegian. I knew he was not an American.

Q. Why did you know that? That is, on what was your presumption founded?

A. Well, he was on a Norwegian ship.

Q. And don't you know that he spoke very broken English?

(Testimony of A. J. Frey.)

A. No, I do not; I know that he spoke very good English.

Q. But couldn't you tell that he was a foreigner?

A. Oh, yes, I could tell he was a foreigner. I could not tell that he was a Norwegian but I could tell that he was a foreigner of some kind.

Q. And you could tell that Captain Lie was a foreigner, could you not? A. Yes.

Q. Where did you get your information, Mr. Frey, that enabled you to answer one of the interrogatories in the freight suit to the effect that the "Beaver" was making eleven knots per hour at 3 o'clock?

A. As I recollect it now, that was shown by the engineer's log, I presume. That is my recollection now.

Q. You have not any other recollection as to the source of your information?

A. It was either a report based on information received from the commander, which was based on information from the engine department, or it may have come direct from the engine department. I don't know just what channel it came through.

Q. But whatever the channel was, it was authentic? A. I have no reason to doubt it at all.

Q. The horse-power and the maximum speed of the "Beaver" on [610—489] her trial trip you got from the blue-prints, did you not?

A. That was from the blue-prints. And I wish to make a correction there in the interrogatories at this time, a mistake which I just discovered to-day for the first time in reading these interrogatories, a

(Testimony of A. J. Frey.)

stenographic error. It says: "Answering to interrogatory No. 1, Claimant says that it does not know the maximum speed of the 'Beaver' about the date of the filing of the libel, but that her speed at her trial at Newport News, in 1910, was 17.6 knots at 86 revolutions and 4,448 indicated horse-power." That is a stenographic error and should read "17.06."

Q. What about the 86 revolutions, is that a stenographic error also? A. No, sir, that is correct.

Q. But whatever the data is, Mr. Frey, it came from the blue-prints? A. Yes, sir.

Mr. McCLANAHAN.—Mr. Denman, you were going to produce those blue-prints.

Mr. DENMAN.—Yes, I know I said I would. I was to have them here this afternoon.

Mr. McCLANAHAN.—Will you produce them tomorrow?

Mr. DENMAN.—Yes, I will produce them tomorrow. They have been in your possession, however.

Mr. McCLANAHAN.—Yes, they were produced here.

Mr. DENMAN.—They were produced here and they were examined by your experts.

Mr. McCLANAHAN.—Q. As I understand it, Mr. Frey, you don't know where the information came from that based the basis of your answer in the original suit, the details of the facts?

A. No, I don't know where they came from. [611—490]

Q. You did not furnish them at all?

(Testimony of A. J. Frey.)

A. No; that is, they were not furnished by me for that specific purpose. Various data was furnished by us from time to time to the counsel in this case but how that specific information was furnished I don't know.

Q. Oh, that is different; did you furnish the information found in the answer in the original suit, as to the number of minutes that the "Selja" was at a standstill in the water after she had been driven across the course of the "Beaver"?

Mr. DENMAN.—Just read the allegation to him, if you please.

Mr. McCLANAHAN.—You can read it to him if you wish. You will find that on page 2, Mr. Frey?

A. I cannot say whether I furnished that. It was pretty generally understood by all concerned on our side of the proposition, that that was the case. I don't know where whoever drew up this answer got the specific information.

Q. Where did you get the understanding? That is your understanding, is it?

A. It was my understanding that the "Selja" had been stopped for some considerable period prior to the collision, yes, sir.

Q. I am talking about the 5-minute period referred to in the answer; where did you get that understanding? A. Well, I cannot say.

Mr. DENMAN.—What is the 5-minute period you refer to in the answer, Mr. McClanahan? Read it.

Mr. McCLANAHAN.—I will point it out to you; I don't care to read it, my voice is bad: "as claimant

(Testimony of A. J. Frey.)

is informed, and therefore alleges, at least 5 minutes"— [612—491]

Mr. DENMAN.—At least 5 minutes?

Mr. McCLANAHAN.—Yes. Read the last question to the witness, Mr. Reporter; we are being diverted.

(The record was here read by the Reporter.)

Q. You don't know where you got the understanding that the "Selja" had been driven across the course of the "Beaver" and was at a standstill for at least 5 minutes?

A. Where I got my impression?

Q. Yes.

A. I got it first from Captain Lie and secondly from Chief Engineer Eggen.

Q. Oh, that is where you got your understanding?

A. But whether that was the basis of the answer there I am not prepared to say.

Q. I am not directing my questions now to that particular matter, but that is where you got your understanding?

A. That is where I got my understanding, yes.

Q. Did you have the further understanding that at 3 o'clock the "Selja" was proceeding at a speed of 6 knots or more until she was driven forward to a point where she crossed the course of the "Beaver"?

A. Prior to 3 P. M.?

Q. No, that at 3 o'clock the speed of the "Selja" was 6 knots at least until she was driven forward across the course of the "Beaver"?

A. There was a good deal of doubt in my mind as

(Testimony of A. J. Frey.)

to what the speed of the ship was; the captain said it was 6 knots and the chief engineer said it was 3½.

Q. You do not know where the information came from that finally was embodied in the answer?

A. No, I do not.

Q. Your answer also alleges that at 3:10 P. M. the "Selja" was almost at a standstill in the water; did you have that information? [613—492]

A. Well, that was my impression, yes.

Q. Where did you get that impression?

A. From the same source, from the conversation with the captain and the chief engineer.

Q. You mean at the time you had the conversation with Captain Lie on November 23, he gave you that understanding? A. Yes, sir.

Q. Why did you not embody that in this statement, then, that you purported to have made to your stenographer after your conversation?

Mr. DENMAN.—I think it is there.

A. It is in there.

Mr. McCLANAHAN.—Q. It is there?

A. Yes, sir.

Mr. DENMAN.—It shows 3 o'clock and it shows 3:05.

Mr. McCLANAHAN.—Q. Please refer to that portion of the statement, which I now hand you, which covers this particular matter, namely, that at 3:10 the "Selja" was almost at a standstill in the water. That is the allegation of your answer.

A. I refer to the first paragraph of this statement:

"Captain Lie stated that he heard the whistles

(Testimony of A. J. Frey.)

of the 'Beaver' about 15 minutes before the collision; that the 'Selja' at that time was going ahead under about 50 revolutions, approximately 5 to 6 knots, and that about 5 minutes after hearing the 'Beaver's' whistles'—which would make it about 10 minutes before the collision—'the engines were stopped altogether and the ship went ahead under her own momentum."

Q. That is the statement you refer to as coming from Captain Lie which formed the basis of your belief as to the statement in the answer? [614—493]

Mr. DENMAN.—He has not stated he had any belief.

A. As to my impression that the ship was dead in the water somewhere around 3:10, 5 or 6 minutes prior to the collision.

Mr. McCLANAHAN.—I think that is all.

Redirect Examination.

Mr. DENMAN.—Q. Mr. Frey, don't you recall coming over from my office, either on the way over, or when I was examining Eggen, calling my attention to the fact that he stated to you at some time that the vessel would stop in a minute and a half or two minutes, with a 3-knot speed, after the engines were stopped?

A. Well, I may have, but I do not recollect it now. My impression was that I did not discuss Eggen's statement with you until sometime after that day.

Q. It was either just before going in, or just before the examination of Eggen, or during the examination, that you told me about the time that the vessel would stop in?

(Testimony of A. J. Frey.)

A. I may have, I could not say, I could not recollect it now.

Q. Do you recollect when you gave me a copy of that statement of Eggen's?

A. My recollection is—I don't recollect whether I ever gave you a copy or not, or whether I simply showed it to you some week or two weeks after it was written out, or whether I gave you a copy; that I don't recollect definitely.

Q. Has the San Francisco & Portland Steamship Company any financial interest in the result of this suit?

A. No, we are fully insured, we are 100 per cent insured.

Q. To get the situation straight on the record, the Portland & Asiatic Steamship Company was the charterer of the "Selja"? A. That is correct. [615—494]

Q. And the San Francisco & Portland Steamship Company is the owner of the "Beaver"?

A. That is correct.

Q. And you serve in the capacity of manager in San Francisco for both corporations?

A. That is correct.

Q. Do you know anything about the drawing or the framing of the first answer filed here on January 18, 1911? A. No, I do not.

Recross-examination.

Mr. McCLANAHAN.—Q. You recognize that as the insured you are under obligations to the insurance company to defend this suit?

(Testimony of A. J. Frey.)

A. To protect the insurance companies?

Q. Yes. A. Yes, that is my understanding.

Q. Just as if you were not insured?

A. Well, no, I don't understand it that way; I understand that we are practically acting as the agents of the insurance company.

Q. You are to protect their interests just the same as if you were not insured, to the same extent?

A. I suppose that is correct.

Mr. DENMAN.—Q. But you have no financial interest in the outcome? A. No. [616—495]

[Testimony of Carroll C. Dickson, for Claimant.]

CARROLL C. DICKSON, called for the "Beaver," claimant, sworn.

Mr. DENMAN.—Q. What is your occupation?

A. I am connected with the Pacific Mail Steamship Company.

Q. In what capacity? A. Clerk.

Q. Are you a stenographer as well?

A. Yes, sir.

Q. Do you recollect on the 1st day of December, 1910, taking the dictation of a statement of R. Eggen, Chief Engineer of the steamship "Selja," from Mr. Frey? A. I recollect it.

Q. Do you recall Mr. Eggen being in the office at that time, or at any time prior to that?

A. I recall his being in about that time.

Q. And do you recall the occasion of the dictation?

A. I do.

Q. Did you make that memorandum yourself that is there before you? A. No, sir.

(Testimony of Carroll C. Dickson.)

Q. Will you examine it, please? Did you take that down yourself? A. No, I did not take it myself.

Q. You did not take it yourself? A. No.

Q. Were you present though when Eggen was interviewed in the office? A. I was.

Q. And you recollect the conversation that occurred there? A. Perfectly.

Q. Can you give the substance of it without consulting the memorandum? A. No, sir.

Q. Would the memorandum refresh your memory, if you saw it? A. It would.

Mr. McCLANAHAN.—What memorandum?

Mr. DENMAN.—Q. Did you sign a memorandum as to the conversation? A. I did. [617—496]

Q. Is this it (handing)?

A. This is my signature.

Q. Now, reading the memorandum here—

Mr. McCLANAHAN.—Now, just wait a moment.

Mr. DENMAN.—Q. When was that memorandum taken, if you recollect; how soon after Mr. Eggen left? A. I do not recall.

Q. Was it on that same day?

A. I am inclined to think so.

Q. Do you recollect when you affixed your signature on that, whether it was written up on that day or at a later time?

A. It was written December 1st.

Q. Do you recollect when you affixed your signature there? A. I do not recall, no.

Q. Was it about that time?

A. Yes, it was certainly within a day.

(Testimony of Carroll C. Dickson.)

Q. Refreshing your memory from that memorandum, can you tell us what the conversation was between Mr. Eggen and Mr. Frey?

Mr. McCLANAHAN.—Just a moment; I would like to ask a question or two first.

Q. Without looking at the memorandum, Mr. Dickson, did you make any memorandum of the conversation yourself?

A. I have the salient fact that—

Q. (Intg.) Well, answer my question, did you make any memorandum of the conversation yourself?

A. May I ask what you refer to by a memorandum?

Q. Well, the ordinary understanding of what a memorandum is, a writing of some kind, a notation.

A. Formal?

Q. What do you understand by the use of the word "memorandum"?

A. A memorandum might be notes which would be put in a book; it might be something of this nature, something which is written out on a typewriter, something in the shape of a letter as to [618—497] facts which are not formal, put in a letter say.

Q. That is your understanding of a memorandum?

A. Yes, sir.

Q. Did you make any such?

A. I made some notes, yes, sir.

Q. Where are they?

A. I have them in my possession.

Q. Produce them.

A. Not personally with me.

(Testimony of Carroll C. Dickson.)

Q. Those were notes made by you of the conversation with Mr. Eggen? A. Yes, sir.

Q. You were at the time in the employ of the Pacific Mail Steamship Company? A. Yes, sir.

Q. At the time of the conversation?

A. Yes, sir.

Q. Mr. Frey you understand dictated his version of the conversation to a stenographer—you understand that he did?

A. I heard Mr. Frey dictate the conversation.

Q. You heard him dictate?

A. I heard him dictate.

Q. And after the dictation had been transcribed it was presented to you, was it?

A. It was presented to me as per this (indicating).

Q. And you were asked to put your signature to the bottom of the paper?

A. No, I was not asked to sign it; it was put to me, are these the facts. If you mean asked—was I compelled to sign it, certainly not.

Q. You were not compelled to sign it?

A. Certainly not.

Q. You did not feel that if you did not sign it you would not lose your position? A. Certainly not.

Q. But at the same time, when the paper was handed to you there was a place for your signature at the bottom; the words reading, "I was present when the foregoing statements were made and heard everything except that portion in regard to the steam pressure, covered by lines 5, 6 and portion of 7 of this

(Testimony of Carroll C. Dickson.)

[619—498] memorandum." A. I signed that.

Q. I say that was on there when it was presented to you to sign? A. Yes, sir.

Mr. McCLANAHAN.—I think we will have to insist on the witness producing his own memorandum of the conversation before we proceed further.

Redirect Examination.

Mr. DENMAN.—Q. You can do that, Mr. Dickson, can you not? A. I can.

Q. By the way, was this indorsement on the bottom in the black type, as distinguished from the other, was that on there at the time the memorandum was first presented to you and you read it over—the indorsement on the bottom? A. Yes, sir.

Q. Now, are you sure as to that? Read it over and see. I am speaking now of the postscript.

A. I would like to amend that, Mr. Denman, and say that what I signed here covers everything in the conversation with the exception of the information contained in lines 5, 6 and a portion of 7.

Q. How did that exception to these lines 5, 6 and 7, come to be in that postscript unless you had read the other matter beforehand?

A. I don't quite catch the drift of that question.

Q. Let me put the question to you again: in the postscript here you say, "I was present when the foregoing statements were made and heard everything except that portion in regard to the steam pressure, covered by lines 5, 6 and portion of 7 of this memorandum"; now, was that on there before you

(Testimony of Carroll C. Dickson.)

had read this? A. These were here in conjunction.

Q. How can you explain the fact that you except lines 5, 6 and 7 regarding the steam-pressure? Had you told anybody regarding that? [620—499]

A. I don't quite understand you.

Q. It says here "except that portion in regard to the steam-pressure, covered by lines 5, 6 and a portion of 7 of this memorandum"?

A. Owing to concentration at the time I did not catch that particular fact.

Q. But you say that this was on here—were you present when that postscript was dictated?

A. No. Mr. Denman, may I say something?

Q. Surely.

A. If you will notice in this, I said I did not do this portion of it, referring to the body of the exhibit; now, if you will look at that carefully you will notice that the type here is different, and therefore I wrote this by myself, this portion here, referring to the postscript; in so far as I knew of all of the features of this, with the exception of lines 5, 6 and that portion of 7, I wrote this myself on a machine I have, which is of a different make from the machine on which the body was written.

Q. When this was first presented to you before you signed it, when this document was first presented to you before you signed it, was that postscript on it or was it put on after you first received the document?

A. After this was turned over to me, because I did this myself.

(Testimony of Carroll C. Dickson.)

Q. You put the postscript on yourself?

A. I put the postscript on myself.

Q. That was at whose request?

A. As I recall it, Mr. Frey's request.

Q. Does the body of that memorandum correspond with your own memorandum as to the conversation? A. I think; I should say absolutely.

Q. You will produce that tomorrow and be here at 2 o'clock, if you will. A. Very well. [621—500]

Recross-examination.

Mr. McCLANAHAN.—Q. Who is the Mr. Frey you refer to as the man who requested you to sign that?

A. May I ask just what you mean by that, who is he privately, or officially, or what? I am referring to Mr. A. J. Frey.

Q. Who is he privately?

A. I am referring to Mr. A. J. Frey.

Q. Who is he privately?

A. A gentleman who lives in Alameda County.

Q. And who is he officially?

A. He is connected with the Pacific Mail Steamship Company.

Q. In what way?

A. An assistant to the Vice-President.

Q. Has he entire control of the office there in which you work? A. No, sir.

Q. Don't you get your orders from him?

A. The officer of that company is the Vice-President and General Manager.

Q. Don't you get your orders from Mr. Frey?

(Testimony of Carroll C. Dickson.)

A. Not exclusively.

Q. When Mr. Frey gives you orders you obey them, do you not, in the line of your work?

A. I carry out the orders of the office, recognizing them as the direction of the head of the office.

Q. Well, don't you recognize Mr. Frey as the man to whom you look to in the office there?

A. Mr. Frey is my immediate superior.

(The further hearing was thereupon continued until to-morrow, Wednesday, July 19th, 1911, at 2 o'clock P. M.) [622—501]

Wednesday, July 19th, 1911.

CARROLL C. DICKSON, recalled for "Beaver," claimant:

Mr. DENMAN.—Q. Mr. Dickson, at the close of yesterday's examination you said you would procure a memorandum of the portion of the conversation that was had between Mr. Eggen, Chief Officer, and Mr. Frey; have you got that memorandum here?

A. Yes, sir.

Q. Just let me have it, please?

A. Yes (handing).

Q. Under what circumstances was this memorandum made?

A. At the time of the conversation referred to that Mr. Eggen had in the office.

Q. And Mr. Frey instructed you to make a memorandum of the conversation, did he?

A. Yes, sir.

Q. You did not get the whole of the conversation in

(Testimony of Carroll C. Dickson.)

the memorandum, did you?

A. No; as I stated, the salient features.

Mr. McCLANAHAN.—I would like to read this into the record.

Mr. DENMAN.—Why not just put it in?

Mr. McCLANAHAN.—We had better read it in. It reads as follows:

"Chief Engineer 'Selja.' Dec. 1, '10.

Normal steam pressure 180. At time of collision 160–170. Before 3 p. m. on date collision engines 40 R. P. M. After 3 p. m. 20 R. P. M. which would give Str. 3–3–2 knot speed. Engine stopped 5 minutes before reverse signal given. Vessel picks up speed quickly." [623—502]

Cross-examination.

Mr. McCLANAHAN.—Q. Mr. Dickson, what is or what was your particular business in the office of the Pacific Mail Steamship Company in December, 1910?

A. A clerk in the office.

Q. What were your duties as clerk?

A. Stenographic work, cable work.

Q. What do you mean by "cable work"?

A. Sending cables on company's business.

Q. What do you mean by "sending cables"—do you mean going to the cable company's office with them? A. Coding the cables.

Q. What was your stenographic work—just general stenographic work?

A. General stenographic work.

Q. Was there another stenographer in the office

(Testimony of Carroll C. Dickson.)

also? A. Yes, sir.

Q. Was he or she there at the time of this conversation? A. She took that memorandum.

Q. She took what memorandum?

A. The memorandum that is referred to there.

Q. That was after the conversation, was it not?

A. It was dictated to her.

Q. After the conversation? A. After the conversation.

Q. And after Eggen had left? A. Yes, sir.

Q. I asked if she were there during the conversation? A. I do not recall.

Q. Is it not a fact that Mr. Frey prepared you for this interview with Eggen, forewarned you of it?

A. I gave attention to it so I would recall in case I should be summoned as a witness.

Q. Now, you answer my question, did Mr. Frey not forewarn and [624—503] prepare you for this contemplated conversation with Eggen?

Mr. DENMAN.—What do you mean by "prepare"?

Mr. McCLANAHAN.—The question is not directed to you, Mr. Denman.

Mr. DENMAN.—But I want the witness to have a chance.

Mr. McCLANAHAN.—The witness has not asked any questions about my question and therefore I assume he understands it until he gives me some light to the contrary.

Mr. DENMAN.—I object to the question upon the ground that it is indefinite because it is not stated

(Testimony of Carroll C. Dickson.)

what the word "prepare" means.

Mr. McCLANAHAN.—I will ask the Reporter to read the question to the witness. (Question read.) Don't look at Mr. Denman, he is not going to answer the question, Mr. Dickson.

Mr. DENMAN.—I do not see that the witness is looking at me.

Mr. McCLANAHAN.—He is certainly looking at you and it is known to all persons here that he is.

Mr. DENMAN.—Well, it is in the record now, if you want to have it there.

Mr. McCLANAHAN.—Proceed and answer the question, if you please.

A. What do you mean by "prepare"?

Q. Do you not know what I mean by the use of the word "prepare" in that question? A. No, sir.

Q. Well, let me simplify the question: did he not, Mr. Dickson, have a talk with you about the contemplated interview with Mr. Eggen, before it took place? A. It was mentioned.

Q. What did he say about it?

A. I do not recall.

Q. He told you that he was going to have a talk with a man, did he?

A. I should say no. [625—504]

Q. Who did he say he was going to have a talk with? A. He did not say.

Q. Well, in what way was it mentioned?

A. It was mentioned that there might be a contemplated talk.

Q. And if there was then what,—what part were

(Testimony of Carroll C. Dickson.)

you to play in the transaction?

A. I was to give attention so that I would know in a way what was said.

Q. Then you were acting under the orders of your superior in the part which you played in this conference with Eggen? A. Is that a question?

Q. That's a question.

A. I should say direction rather than orders.

Q. I stand corrected. It was then in furtherance of this direction of your superior at this conference with Mr. Eggen that you made this memorandum of the conversation? A. Is that a question?

Q. That's a question.

A. Please read the question, Mr. Reporter. (Question read.) Yes.

Q. Did Mr. Frey, in giving you the directions, tell you the particular points of importance in the coming conversation that he wanted you to weight your memory with? A. No, sir.

Q. How did you know what was important and what was not important then?

A. Important from whose point of view?

Q. Well, from yours, first. We will go through the whole category?

A. Naturally important from my point of view what appeared to me as being salient.

Q. Now, we will take Mr. Frey's point of view.

A. I don't happen to know.

Q. So what did you ask me for information for as to whose point of view was intended when you only

(Testimony of Carroll C. Dickson.)

had one point of view [626—505] and that was your own?

A. Well, the reason is that I thought perhaps you were referring to your own point of view.

Q. All right, I will stand corrected.

A. Thank you.

Q. Now, Mr. Dickson, how did you know from your own point of view what would be important and what would not be important in this coming conversation?

A. I stated that I took what I considered salient features.

Q. Did you know who Eggen was, this man with whom you were going to connect yourself in the way of a conversation?

A. I was not a part of the conversation.

Q. Well, did you know who the man was? Answer that question. A. Yes, sir.

Q. You knew who he was—Chief Engineer of the "Selja"? A. Yes, sir.

Q. Did you know anything about the "Selja" collision with the "Beaver"—the facts?

A. The facts—how particularly—in a general way?

Q. Generally or particplarly?

A. Such as might be currently known around town.

Q. Oh, yes, currently known or noncurrently known. A. Yes, sir, I did.

Q. You knew the facts? A. Yes, sir.

Q. Where did you get the facts?

A. From what I had read on the subject.

(Testimony of Carroll C. Dickson.)

Q. Where did you read anything on the subject?

A. In newspaper articles.

Q. In the newspapers?

A. And, in addition to that, what I had heard of the collision.

Q. From whom?

A. I don't recall; various people. [627—506]

Q. You did not have any conversation with Mr. Frey about the facts, did you?

A. Not that I recall now.

Q. From your point of view why was it important that you should know the number of revolutions the engines of the "Selja" were making before 3 o'clock?

A. That was a thing that the chief engineer particularly mentioned.

Q. Why was it important from your point of view that you should make a memorandum of that fact?

Mr. DENMAN.—He just said because the chief engineer particularly mentioned it.

Mr. McCLANAHAN.—I understood exactly what he said, Mr. Denman.

A. Will you please read the question? (Question read.) As I stated, I considered it a salient point.

Q. From the newspaper information that you had had of the collision? A. No.

Q. Well, from what? What was the source of information that made it a salient point, in your opinion?

A. In the conversation it appeared to me to be one—to be a salient point. May I explain?

Q. Certainly.

(Testimony of Carroll C. Dickson.)

A. If a general discussion was going on and there was some certain fact, some concrete things mentioned, when a concrete thing was mentioned that would be salient from my point of view, and therefore this was a salient fact in this instance.

Q. How did Mr. Eggen's concrete facts appear? What distinguished the concrete facts from the other facts? It was just a general conversation, was it not? A. A general conversation.

Q. Then how was any of it concrete and some not concrete? [628—507]

A. I did not say some was not concrete.

Q. Was it all concrete?

A. I did not say it was all concrete.

Q. Well, answer my question: how was some of it concrete? How did it evidence itself as being concrete?

A. As I said, I put down what I considered salient features. That struck me as being a salient feature.

Q. And you knew nothing about the purport of the contemplated interview at the time you were asked to listen to it?

A. I certainly knew the purport of it.

Q. Who did you learn the purport from?

A. In a general way I—

Q. (Intg.) Who did you learn it from?

A. Mr. Frey.

Q. So he told you, then, in a general way, that he was going to have a talk with Eggen about the "Selja"-"Beaver" collision?

A. He did not say that, no, sir.

(Testimony of Carroll C. Dickson.)

Q. Well, what did he say?

A. I do not recall the phraseology.

Q. What was the generality of it?

A. There might be—there might be a conversation on the matter.

Q. On the matter of the "Selja"-"Beaver" collision? A. On the matter of the loss of the "Selja."

Q. Mr. Dickson, do you take part in conferences of this kind, or take the part in conferences in the office of the Pacific Mail in other matters than on this particular occasion—do you take the part that you took in this matter?

A. I cannot answer that question directly because I don't know of any parallel case.

Q. Well, this stands out alone in your remembrance?

A. If I had a parallel case I could answer your question directly.

Q. You do not remember ever before being asked to listen and note a conversation that was to take place between Mr. Frey and [629—508] another man?

A. Did you say remember? Is that a question you are asking?

Q. That is a question I am asking you.

A. Please read it. (Question read by the Reporter.) I don't recall.

Redirect Examination.

Mr. DENMAN.—Q. Mr. Dickson, as I understand it, the memorandum signed by Mr. Frey, the one that is put in evidence here, was dictated in your presence

(Testimony of Carroll C. Dickson.)

to another stenographer? A. It was.

Q. And you listened to it at that time?

A. Yes, sir.

Q. And that it was a correct statement except as to the number of lbs. of steam that were referred to there, and as to that you did not recall the statement of Mr. Eggen?

A. I do not recall those as specified in lines 5, 6 and a portion of 7.

Q. But as to the balance of the memorandum, at the time it was dictated, it is correct?

A. Absolutely.

Q. And then subsequently the memorandum was handed to you? A. Yes, sir.

Mr. McCLANAHAN.—That has been all gone over, has it not, Mr. Denman?

Mr. DENMAN.—Q. You looked it over and signed it? A. Affixing the statement there.

Mr. DENMAN.—Now, we offer this in evidence.

Mr. McCLANAHAN.—I object to it as immaterial, irrelevant and incompetent.

Mr. DENMAN.—You brought it out yourself in cross-examination. I am going to put it in.

Mr. McCLANAHAN.—And also on the ground that it is hearsay. [630—509]

The COMMISSIONER.—That will be marked Respondent's Exhibit "C."

Mr. McCLANAHAN.—And on the further ground that there has been no ground laid for this discreting or rebuttal evidence, no foundation laid for it.

"STATEMENT OF R. EGGEN, CHIEF ENGINEER S. S. 'SELJA.'

12/1/1910.

Mr. Eggen stated to me today that prior t o3:00 P. M. on November 22nd, 1910, the 'Selja' had been running under forty revolutions. That at 3:00 P. M. this had been reduced to twenty revolutions, which would give the ship a speed of 3 to 3½ knots. He stated that the normal steam pressure was 180 lbs., but that during the time they were under reduced speed it had varied from 160 to 170 pounds. He stated that the engines were stopped prior to the collision for fully five minutes before the full speed astern signal had been given, immediately prior to the collision. That, as the ship had been going under 20 revolutions prior to the engines being stopped, the ship should come to a dead stop in the water under these conditions within one or one and a half minutes, and that he was satisfied that the ship had been dead in the water at least three minutes or slightly more prior to the time that the astern order was given.

In reply to the query as to how long it would take with the ship dead in the water to get the ship going astern under full speed astern order Chief Engineer Eggen stated that it would take but a very few moments as the ship was very quick to respond.

F/P A. J. FREY.

I was present when the foregoing statements were made and heard everything except that portion in re-

(Testimony of R. F. Lopez.)

gard to the steam pressure, covered by lines 5, 6 and portion of 7 of this memorandum.

C. C. DICKSON." [631—510]

[Testimony of R. F. Lopez, for Claimant.]

R. F. LOPEZ, called for the "Beaver," claimant, sworn.

Mr. DENMAN.—Q. Captain Lopez, where did you receive your naval education?

A. At the Naval Academy.

Q. How long ago?

A. I graduated in 1879.

Q. And continued in the service of the United States? A. Yes, sir, ever since.

Q. What rank do you hold now? A. Captain.

Q. What seas have you served on, Captain?

A. I have served, I think, on about every sea.

Q. How many years of sea service have you had altogether? A. You mean actual sea service?

Q. Yes.

A. About 22½ years I have been actually at sea.

Q. Have you had any special service outside of the regular naval service?

A. Yes, I was in the Coast Survey for nearly three years, on the survey of South Eastern Alaska, and also as Lighthouse Inspector of the 12th Lighthouse District. That is on the coast of California.

Q. Lighthouse Inspector of the 12th Lighthouse District, which is the coast of California?

A. Yes, sir.

Q. How recently have you served in that capacity?

(Testimony of R. F. Lopez.)

A. About two years ago. I served from 1906 to 1908 as Inspector of that Lighthouse District.

Q. That includes the district of California?

A. Yes, sir, the coast of California, from St. George's Reef to San Diego.

Q. Were you with the fleet that sailed around the world?

A. No. At that time I was Lighthouse Inspector.

Q. Did you sail with the fleet from San Francisco north? [632—511]

A. No, I was not with that fleet at all.

Q. You were telling me yesterday, Captain, of a trip you took into Puget Sound; on what occasion was that? You said it was when you were navigating officer?

A. I was then on the "New York," the flagship of this station. That was in about 1904.

Q. What office did you hold then?

A. Navigator of the "New York."

Q. I want to ask you some questions of a technical but rather elementary nature. Suppose the steamer "Beaver" were sailing into a very heavy head swell, at a rate which in smooth water would take her 15 knots an hour, her draught aft being 18'-6", and her propeller having a radius of 17 feet; a light breeze blowing, not to exceed 5 knots an hour, so that the chief retarding force, if any, would be the force of the swell and the exposure of the propeller; would it be unreasonable to expect that she would lose in the neighborhood of 3 knots in the distance travelled by her in an hour?

(Testimony of R. F. Lopez.)

Mr. McCLANAHAN.—I object to the question upon the ground that the hypothesis has not been proven and not properly stated; on the further ground that the witness has shown no familiarity whatever with the steamer "Beaver."

A. Yes, that is possible. She could be reduced 3 knots in speed by a heavy head sea and her propeller being out of the water, by a sufficient heavy head sea. Yes, that is quite possible, that her speed might be reduced a matter of 3 knots.

Mr. DENMAN.—Q. Captain, have you been aboard the "Beaver" or the "Bear"?

A. I was on board the "Bear" once in a trip around the bay here, when she took a lot of merchants and [633—512] other people invited as guests. She ran up to Mare Island and back. I think that was when she first arrived from the other coast out here.

Q. Did you examine her carefully at that time?

A. No. I was simply there as a guest. I went over her, naturally, and took a look at her, but I am not familiar with any of her qualities any more than such a general look around would give one.

Q. So that your answer to this would simply be that it would not be unreasonable to find that?

A. No, in general it would not be unreasonable, depending on how heavy the sea was. That is the main point.

Q. And we will presume that the breeze is not more than 5 or 6 knots; such a breeze would not count particularly in the resultant, would it, a 5-knot breeze?

(Testimony of R. F. Lopez.)

A. No. The sea would be the main thing there. It might retard a little.

Q. If the "Beaver" be sailing on a course south 67 east magnetic, with a heavy westerly swell following her, her propeller being the same as in the last general question, and the wind the same, and her engines driven at the same speed, would it be unreasonable to expect that in an hour she would drop a knot and a half in the distance covered?

A. With the same sea, the same heavy sea?

Q. Yes.

A. No. I think that is possible, due to yawing and not being able to make a perfectly straight course. Using the rudder retards the speed of a ship a great deal. The sea would be then about 2 points on her starboard quarter, causing a yaw more or less. That would retard her speed. Of course, I could not say exactly how much, it [634—513] would depend entirely upon the sea. The propeller would race a certain amount, depending on the sea, because it would be thrown out of the water and would work in the air instead of working in the water.

Q. What do you mean by yawing, Captain? What is that a technical term for?

A. For the movement of a vessel; instead of the direct course on which she is heading, the movement would be on the one side or the other, from one side to the other; for instance, she would go off probably to port and then come up and off to starboard again and you have to steady her with the helm in order to keep her straight.

(Testimony of R. F. Lopez.)

Q. And then instead of your rudder being from straight behind it moves from side to side and retards the ship to a certain extent? A. Yes, sir.

Q. Would yawing be occasioned by sailing on such a course, with such a following sea? A. Yes, sir

Q. In going into a head swell, with the log out, is there any variation between the distance shown by the log and the distance actually travelled through the water by the ship; that is to say, will the log over-run or under-run the ship in going into a head swell?

A. In going into a head swell the log would show more, it would over-run.

Q. Is that a general tendency? A. Oh, yes.

Q. Now, reversing the conditions from the last question, with a vessel proceeding with a following swell, and her log out, is there any tendency of the log to over-run or under-run the ship?

A. The reverse would be the case, she would under-run.

Q. Is that a matter of general knowledge? [635—514]

A. That is general knowledge.

Q. In your experience in the Lighthouse service, it has been your business to make a study of fog conditions, has it not?

A. In what way,—the study of fog, do you mean?

Q. Yes.

A. More or less, yes. That would come in under all my sea service; we have more or less to do with fog.

Q. What can you say as to the effect of a dense fog

(Testimony of R. F. Lopez.)

on the direction of the approach of the sound of whistles at sea?

A. The direction from which the sound would appear to come?

Q. Yes.

A. It is very unreliable.

Q. It is very unreliable? A. Yes, sir.

Q. What is the reason for that, Captain Lopez?

A. It is due to the state of the atmosphere, probably a different strata of density, and so forth; just the actual scientific reason, as to just how it works, I cannot exactly explain, but the general impression is it is due more or less to the wind and to the actual state of the atmosphere.

Q. You say the different densities of the fog; do you mean by that that the sound is refracted in a different way in the different densities?

A. Yes, sir, in the different conditions of the atmosphere. It is transmitted naturally through the medium of air.

Q. Would an intelligent captain of 15 years' experience at sea honestly assert that the direction of whistles can be as well determined in the fog as in clear weather?

A. You mean the direction of the sound?

Q. Yes.

A. I should think not. The fog signal in clear weather—

Q. (Intg.) I say the whistle in clear weather. [636—515]

A. The whistle in clear weather, no, I think not,

(Testimony of R. F. Lopez.)

because the eye more or less aids.

Q. Is it not a matter of universal knowledge at sea that the fog does deflect the sound?

A. Always. It is very unreliable and uncertain.

Q. And that is a matter of universal knowledge, is it not? A. Yes.

Q. What would you say as to the statement of a sea captain sailing his vessel off Pt. Reyes, 24 knots from Pt. Bonita, on a course South 65 East direct for the Light-ship off Golden Gate, on hearing a deep, distant whistle dead ahead, which gradually broadened to about 2 points on his port bow, who said he was not certain whether it was a whistle of an approaching vessel or the whistle from Pt. Bonita 24 miles distant; what would you say as to the reasonableness of such a statement?

Mr. McCLANAHAN.—I object to the question as calling for the conclusion of the witness.

Mr. DENMAN.—This is an expert witness.

Mr. McCLANAHAN.—An expert on experts?

Mr. DENMAN.—Q. (Continuing.) What would you say as to the reasonableness of such a statement?

A. As I understand the question, at that time he was 24 miles from Pt. Bonita and this signal was taken for the fog signal at Pt. Bonita?

Q. Yes.

Mr. McCLANAHAN.—I object to that upon the further ground that it is a misstatement of the evidence. Captain Lie stated that it was a passing thought with him when he heard it, that it might be the whistle from Pt. Bonita.

(Testimony of R. F. Lopez.)

Mr. DENMAN.—Captain Lie stated that he did not know for [637—516] 10 minutes later whether the whistle he heard was the whistle of a steamer or something else.

Mr. McCLANAHAN.—Captain Lie stated that from timing the whistle he concluded it must be the whistle of a steamer.

Mr. DENMAN.—But for 10 minutes after he first heard it he said he did not know it was the whistle of a passing steamer.

Mr. McCLANAHAN.—I object to that because he did not say it was 10 minutes.

Mr. DENMAN.—Well, he mentioned 3 o'clock and he mentioned 3:10. Captain, please answer the question?

A. In my opinion, it is impossible to hear a fog signal a distance of 24 miles. I fail to see how anyone could mistake a signal of a steamer for a signal from a lighthouse because they each have their characteristics which distinguish them, a certain length of blast and certain intervals between. There is no excuse whatever for mistaking the whistle of a steamer for the signal given by one of the aids to navigation.

Q. Is it reasonable to expect that you can hear a fog whistle 24 miles in the fog?

A. I don't think it is possible Since I have been at sea I never have heard a fog signal at anything like that distance.

Q. What is the maximum distance at which you can recall hearing a fog signal?

(Testimony of R. F. Lopez.)

A. I really cannot say, it varies so. I failed to hear a fog signal within a mile of getting it, and then I have passed it and heard it for four miles after passing it, or for five miles, depending on the direction of the wind or some other unknown condition.

Q. Do you ever recall hearing a fog signal more than 10 miles at sea?

A. No. I never remember having heard one at that distance at sea. [638—517]

Q. What would you say as to the statement of a sea captain with his vessel under the conditions described in the last question who on hearing the whistle ahead blow ten times in ten minutes, was unable to determine until the ten minutes had elapsed that the whistle came from a vessel and not from anything else, his vessel at that time being pointed from Pt. Reyes into the ocean, to the southeast, toward the lightship?

Mr. McCLANAHAN.—The same objection to that question.

A. I fail to see how anything else but a vessel could have been thought of.

Mr. DENMAN.—Q. Would it be reasonable to think of anything else?

A. No, not at all, in my opinion.

Q. What would you say as to the value of whistle bearings from offshore, for the purpose of locating the position of a vessel in a fog? A. Unreliable.

Q. Has this unreliability led to any changes in the methods of giving warnings or advice as to the loca-

(Testimony of R. F. Lopez.)

tion of different places on the coast?

A. You mean as to any other method?

Q. Yes.

A. Yes, the submarine vessel has been put in on the two light-ships on this coast.

Q. Did you put those in? A. I did.

Q. Can you tell us anything as to their method of operation?

A. Yes. These bells—do you want me to describe them?

Q. Yes.

A. The bell is sunk lower down from the ship, about from 12 to 15 feet, and the bell is worked by compressed air; it has the same characteristics, you can make it anything you like, striking seven times in so many seconds. On board the vessel there is a receiver, like a telephone receiver, which leads from a box placed as low as possible, a megaphone [639—518] box down in the bottom of the ship. By holding this receiver to your ear you can get very nearly the direction of the sound. It comes more strongly on the side from which the sound comes. You hold the two to your ear. If you want to get the direction—so as to get the direction of your bell—by bringing the ship up until the sounds are equal, and then looking at your compass, you will find that you are heading very nearly in the direction of the light-ship, or whatever it may be.

Q. Has this method of signalling been found to be successful?

A. Very. Nothing but the most favorable reports

(Testimony of R. F. Lopez.)

are received. It is being adopted in every country. We have fewer out here than in any other part of the world. I think the whole Atlantic Coast now has them.

Q. And these were adopted on account of the failure of the fog signal to work effectively?

A. Yes, sir. It is the only reliable fog signal that I know of.

Q. Would it be anything unusual or unreasonable to discover that the compasses of the steamer "Beaver," sailing on a course South 67 East would have a deviation of 4 degrees easterly?

A. It is quite possible that they might have that, or more. That would depend on how well they were compensated.

Q. Such a deviation is not an unusual thing on a ship?

A. 4 degrees, no. I have seen that. You can reduce that if you want to, but that is not a very great deviation on some points.

Q. You have certain deviations on certain courses, and you have others on others?

A. The deviation varies with every point.

Q. Captain, I asked you to prepare an estimate of rates of speed on the return voyage of the "Beaver"; have you got that [640—519] here?

A. Yes, I think I have. That was as to the length of time, was it?

Q. Yes. Just let me look at the memorandum please. A. Yes (handing).

Mr. DENMAN.—Mr. McClanahan, this is an esti-

(Testimony of R. F. Lopez.)

mate of the amount of time consumed at full speed on the return voyage. You can look it over. She was on the course returning at 4 o'clock P. M. on that day, and reached the light-ship at 5:19.

of her reaching the light-ship at 5:19?

Mr. McCLANAHAN.—Where is your evidence

Mr. DENMAN.—It is in the log.

Mr. McCLANAHAN.—I have not seen it in the log.

Mr. DENMAN.—Oh, yes, it is there. But we will produce that testimony later on if it is not already in. My impression is, however, that it is in. At any rate, it will be shown. During that time they stopped to meet several vessels and changed their speed from time to time, although keeping on the same course.

Mr. McCLANAHAN.—I object to that statement as not being shown by the evidence.

Mr. DENMAN.—And this is a calculation by the expert, based on the presumption—that has been shown or will be shown—of the amount of time at which the vessel went at full speed, converting the part speeds into terms of minutes at full speed.

Mr. McCLANAHAN.—I object to the proposed evidence as being immaterial.

Mr. DENMAN.—The materiality will be shown later on. Do you object to the matter being put in in this form, or do you want me to examine the witness in full?

Mr. McCLANAHAN.—I prefer that you should examine him; [641—520] I don't understand it.

(Testimony of R. F. Lopez.)

Mr. DENMAN.—Q. Captain, presume that at 4 o'clock the vessel was on her course at half speed; at 4:07 full speed was rung up, and between 4:07 and 4:12 she picked up full speed; that she continued at full speed until 5:03, when the signal "ahead slow" was given; at 5:04, the signal "stop"; at 5:05, "ahead slow"; at 5:11, "ahead half"; at 5:14½, "ahead slow"; at 5:16½ "stop" to 5:19. It appears that she went seven minutes at half speed—what would be your estimate of that in terms of full speed?

A. That would be the same as 3½ minutes at full speed.

Q. From 4:07 to 4:12 she was being put from half speed to full speed; what would you estimate those 5 minutes in terms of full speed?

A. I think at about three-quarters.

Q. Is that a fair estimate?

A. I think so. I should say that was very fair. That is as near as you can get to it. It might not be absolute but it is very near to it.

Q. And that would give you 3¾?

A. Yes, 3¾. That would be three-quarters of full speed.

Q. And between 4:12 and 5:03 you would have 51 minutes of full speed? A. Yes, sir.

Q. And between 5:03 and 5:11, your vessel goes one minute ahead slow, one minute stop and 6 minutes ahead slow; what do you estimate that?

A. 6 minutes at half speed I have it.

Q. From 5:05 to 5:11 is ahead slow?

A. Yes. She started there from full speed; I take

(Testimony of R. F. Lopez.)

about an average for the whole 8 minutes as about three-quarters speed; it might be slightly less.

Q. Is that a maximum?

A. That is a maximum. I don't think [642—521] it could be possibly more. It would be more likely to be a little less. That would make it practically 6 minutes of full speed.

Q. From 5:11 to 5:14½; you have been going ahead slow at 5:11, and now to 5:14½ you go half speed?

A. I take the average speed then as three-eighths for 3½ minutes.

Q. What would that give you?

A. That would give me a minute and a quarter at full speed.

Q. And from 5:14½, when "ahead slow" was given, to 5:19 when "stop" was given, you continued for two minutes at slow speed—

A. (Intg.) Between half and slow speed.

Q. What did you figure for that?

A. I take three-eighths for 2 minutes.

Q. Which would give you what?

A. Which would give 75 one-hundredths or ¾ of a knot.

Q. Then she stopped at 5:16½ to 5:19?

A. She would be going ahead.

Q. 2 minutes, at the rate of about ⅜ speed, which would be ¾ of a knot at full speed? A. Yes.

Q. Did you compute any progress of the vessel after 5:16½? A. No.

Q. No progress at all after 5:16½? A. No.

Q. Presuming that she is not stopped at 5:16½,

(Testimony of R. F. Lopez.)

but she simply stopped her engines and goes ahead between 5:16½ and 5:19, how much would you add for that amount?

A. She has some power in her; that would be 2½ minutes; you might say she was going one-eighth speed for that time, [643—522] which would be almost unappreciable.

Q. Well, suppose we make it a quarter; that would be maximum, would it not?

A. Yes. For 2½ minutes, that would be 5 halves, at a quarter speed, you might say that she went half a mile before she would stop.

Q. Captain, what would you get then as to the total number of minutes at full speed, between 4 o'clock and 5:19?

A. Well, that would be 66.75 minutes that she was under full speed.

Q. Presuming that her full speed is 15 knots an hour, and that there is no deterrence of the vessel at all, how far would she travel in those 66.75 minutes?

A. That would be 16.8 knots.

Q. Figuring that she had dropped a knot and a half under the adverse conditions we have described on the voyage to the light-ship, how far would she travel in the 66.75 minutes? A. 15.12 knots.

Mr. DENMAN.—You may cross-examine, Mr. McClanahan.

Cross-examination.

Mr. McCLANAHAN.—Q. Captain Lopez, what were the adverse conditions under which you understand from Mr. Denman's question the "Beaver"

(Testimony of R. F. Lopez.)

traveled to the light-ship on this occasion?

A. Traveled to the light-ship?

Q. Yes.

A. That is, before a heavy sea about 2 points on the quarter.

Q. That she had a head sea?

A. No, coming to the light-ship she had the sea on the quarter.

Q. Two points on the quarter?

A. Yes, as I understood.

Q. Starboard quarter?

A. Yes, 2 points on the starboard quarter. [644—523]

Q. That would be one of the adverse conditions?

A. So far as reducing her speed a certain amount is concerned.

Q. How would that reduce the speed, Captain?

A. Causing the vessel to yaw and thereby making her go over a greater distance. If a vessel goes straight ahead on a straight line, and if she yaws from one side to the other, she naturally travels a greater distance to make the distance between the two; and also a vessel yawing that way, it necessitates the use of the helm; by putting the rudder over you have the resistance against the water, which retards her to a slight extent too.

Q. Is that the only adverse condition that you understood was embodied in the question?

A. That is all.

Q. If the "Beaver's" course was set South 67 East Magnetic on her return to the light-ship, and her

(Testimony of R. F. Lopez.)

course was set for the light-ship, this adverse condition that you have referred to would have a tendency to throw her toward the shore from that direct line, from a direct line running from her point of departure to the light-ship. Do you understand what I mean?

A. I understand it. If the man at the wheel did not make up by shifting the helm he might make a course in spite of this yaw, he might make his course by coming up a little to one side and then, allowing being knocked off the other, heading up a little more on the other side. That is the way a course is made under adverse conditions.

Q. That is, he might change his compass course to counteract this adverse situation?

A. I mean if he is given a certain course, for example, and he found he was knocked off a little on one side of that course, then when he brought her back he [645—524] would bring her up a little on the other side.

Q. Change her course a little?

A. Yes, actually changing her course a little; but really trying to make the actual course given.

Q. Trying to make the straight line between the two points?

A. Yes, allowing what he lost on the one side by making up a little on the other. That is where a good helmsman is able to make a good course, whereas a man with poor judgment might lose a lot.

Q. Bearing in mind this adverse condition of the sea, if the course was kept 67 east he would at the

(Testimony of R. F. Lopez.)

end of his run find himself to the left of the light-ship, would he not?

A. The tendency would be that on account of the sea setting him to shoreward.

Q. That is what I thought. Of course, this time of full speed you have given us, Captain, and the distance run, and the speed run, the knots per hour, and so forth, that is simply an approximation?

A. It is merely an estimate.

Q. Based on your best understanding?

A. On my best understanding, yes.

Q. You spoke of a deviation in the compass of the vessel being not unusual when it is 4 degrees from magnetic; you have so stated, have you not?

A. Yes, I have.

Q. And you also stated that the deviations varied according to location?

A. No, the different headings. The deviation is due to the iron in the ship.

Q. If you are on your course, which is an unusual one, you cannot tell the deviation with any degree of accuracy without making a test, can you?

A. Oh, you have determined beforehand for each locality, for instance, for say the coast of [646—525] California, you determine your deviation on each point by what is known as swinging the ship?

Q. You have to go through that?

A. Oh, yes, and then a deviation-table is formed, to which the captain corrects all of his courses. He takes the ship and heads her on each one of the 32 points of the compass, or he may do it on every other

(Testimony of R. F. Lopez.)

point and then interpolate, and then by observation of the sun he gets the deviation on every point from the north all the way around again, and then when he sets his magnetic course he applies that.

Q. But there must be a test before you can tell?

A. Oh, yes.

Q. And if you have not made the test it is merely a guess as to what the deviation would be?

A. It should never be a guess before any vessel goes to sea they determine the deviation and compute a deviation-table. It is only necessary to have another table when you have made a large change in latitude.

Q. So that every master knows beforehand the deviation? A. He knows before he goes to sea.

Q. And if he does not know it, he does not know his business? A. No, he does not.

Q. And he is not navigating properly, is he?

A. No, unless he has determined it before going to sea.

Q. That is true under all conditions of navigation, is it, between one point and another?

A. Yes. The deviation changes with the change of latitude. When a big change of latitude is made, then another deviation-table should be computed, a deviation-table within a certain number of degrees of latitude. [647—526]

Q. If a vessel is starting out from this port on a given course, bound for the north, you think that the deviation of the bridge-compass is definitely ascertained or should be right at the start?

A. Yes, right at the start of the ship.

(Testimony of R. F. Lopez.)

Q. Now, supposing, as in this case, the vessel turns back when at or about Pt. Reyes and makes for return trip to this port, would the captain then test his compass again? A. No, he is—

Q. (Intg.) He is taking another course now?

A. Yes, quite true, but don't you understand he has the deviation on each point? We will say, for instance that the course from here to Pt. Reyes is northeast magnetic—whatever it is; he takes that from his chart, a magnetic course northeast. He looks at his deviation-table and he finds that on the course northeast there are 3 degrees deviation; he applies that to the magnetic course and gets the compass course. If he turns around and comes back southeast—

Q. (Intg.) But suppose he comes back any other course?

A. Well, suppose he comes back any other course, east or west, he picks out that this course is west and then he looks at his deviation-table and he finds what the deviation is on the west and he applies that.

Q. You do not mean to say that that deviation-table made at the start would always apply?

A. Yes, always apply for his run here. Unless he changes his latitude very much that deviation-table will hold for 5 or 6 months. He might swing the ship again when he got a chance. But if he is going to make a very large change of latitude, like running down say to South America, he would on the way down get another deviation-table. [648—527] We are required to do it about every 5 degrees of change

(Testimony of R. F. Lopez.)

of latitude, we make out another deviation-table.

Q. You said that a fog-whistle, in your opinion, was as a bearing, unreliable? A. Yes.

Q. Let me put a case to you and ask you whether that statement would apply to the situation: Suppose you heard a fog-signal say on Pt. Reyes—I will make it applicable to this particular case; suppose you heard the fog-signal from Pt. Reyes on a day when there was a dense fog, 2½ miles, your ship being just a little north of the Point itself, 2½ miles from the Point, and just a little north—

Mr. DENMAN.—You assume that the position of the vessel is known?

Mr. McCLANAHAN.—I am assuming it was 2½ miles.

Q. (Continuing.) You heard the Pt. Reyes whistle clear and distinct; you heard it again in 35 seconds, and you continued hearing it for 15 minutes; do you think that there would be any difficulty under those circumstances, hearing the whistle 35 seconds, in a definite bearing,—I say do you think there would be any difficulty or any unreliability as to the bearing of that?

Mr. DENMAN.—I object to that upon the ground that it assumes that the vessel knows where she is in the beginning, 2½ miles off Pt. Reyes, to the northerly.

A. Yes, my statement was that I think that the compass bearing or the magnetic-bearing of the fog-signal is unreliable, that is, say a matter of one or two points; for instance, if you heard this sound and

(Testimony of R. F. Lopez.)

it sounded to you about east—northeast say—I say it might easily be a couple of points either way, so far as your trying to get the bearing of that sound over [649—528] your compass is concerned.

Mr. McCLANAHAN.—Q. Suppose you continued hearing it every 35 seconds, would that continued hearing not dissipate to some extent the unreliability of the bearing?

A. Naturally the more bearings you take of this sound probably would in a certain degree eliminate the uncertainty of the direction.

Q. That is the more often you heard it the more reliable it would be?

A. By taking the mean of all these different ones you would get something near it, but as to its being accurate as to direction I consider it very unreliable.

Q. You say you consider it very unreliable?

A. I will say it is considered, that all seafaring men consider the direction of the sound as unreliable in a fog for the purposes of bearing, for the purposes of getting a bearing and determining the position of the ship. It is only approximate.

Q. I want to read to you, Captain, a statement on that subject, and I will tell you who made the statement, and then I will ask you if that would change your broad general statement that all seafaring men agree with you on that propostition. Speaking of the difficulty of locating fog sounds it says:

> "I know that this difficulty is made a great deal of among sailors but I have not found that difficulty in locating sound in a fog. I have

(Testimony of R. F. Lopez.)

served a great deal in fleets in my younger days and as you know very well the ships often get scattered, and all that sort of thing. I would hear the whistle of a vessel in a fog and when the fog lifted she would be there where I supposed she was. I can say for myself [650—529] that I do not find that great difficulty in locating sound in a fog which some people seem to find."

That is a statement made at the International Marine Conference in 1889, by Admiral Bowden Smith of Great Britain. Do you know him?

A. I know of him, yes.

Q. A man of some note, is he not?

A. Yes, that is true, but even that, I do not consider that to the contrary of what I say. That is as to the difficulty of hearing it; I think he refers to the difficulty of hearing it. Sometimes you cannot hear it. My understanding of your question is as to the direction.

Q. He says, she would be there where I supposed she was.

A. But that would be very different from the bearing on the point of a compass to determine your position.

Q. As a matter of fact, Captain, it is generally known that sound can be more distinctly heard and further heard in a fog than in clear weather, is it not?

A. I don't know that to be a fact.

Q. You don't know that? A. No, I do not.

Q. Have you had no experience in that line?

(Testimony of R. F. Lopez.)

A. I never had any information that would determine that accurately so that would make me believe it one way or the other.

Q. Did you *ever Professor* Tyndall's work on sound? A. No, I have not.

Q. Do you know of the experiments that he made off the Dover Coast, in fog? A. I do not, no.

Q. Under the supervision of the British Admiralty? A. No, I have not read it.

Q. You did not know that he stated that sound could be accurately [651—530] located with practice in a fog, and based his statement on the experiments?

A. No, I did not know that he stated that, and if I had read it I should not believe it. I have had so many things to the contrary myself; I could give you so many instances of my own experience.

Q. You stated, I believe, it would be impossible to hear a fog-signal for 24 miles.

A. I say that I have never heard it, nor have I ever heard any man state it during my experience, men whom I have known in the service, that they ever heard a fog-signal for 24 miles.

Q. Have you ever participated in experiments as to the distance sounds could be heard in fog?

A. No, I have not.

Q. You know that those experiments have been made?

A. At various times, yes, but I have never read or known of anything very accurately having been determined about it. I could give you an experience

(Testimony of R. F. Lopez.)

that I had not very long ago in the lighthouse, when I was Lighthouse Inspector; I was coming out of Eureka in a very thick fog, and making down for the lighthouse there; I could not hear the signal; I got within a mile of the light-ship, and I was firmly convinced in my own mind that the captain of the ship was not sounding his fog-signal, and I was prepared to go on board and have him discharged, and just then the fog lifted, and I saw the steam coming out in great volumes from the fog-whistle, but not a sound. I got within one mile and I could not hear it. I was to windward. I passed it and I heard it for 5 miles after I passed it. There was just that little trick there about it that I could not explain. I have had numerous experiences similar to that, and they led me to believe that it is a very unreliable thing. [652—531] You may hear it and you may not. I do not say that every man agrees with me, but my general experience is that every seafaring man I have talked with has had the same experience.

Q. And that is probably one of the reasons, is it not, Captain, that so much caution should be used by seafaring men in navigating their ships in fog?

A. Undoubtedly. The unreliability of it would cause me never to trust to it. It is an aid, but it is not a thing that can be absolutely relied upon.

Q. Captain, I am a little surprised at your statements about the action of logs over-running and under-running under certain conditions. Have you ever made any experiments in the matter?

A. Only just in the natural course of duty.

(Testimony of R. F. Lopez.)

Q. That is, you have taken your observation and compared it with the run of the log?

A. With the run of the log, yes. by going along with the land, we have checked up with the land and have found that sometimes your log would be set home and sometimes over reading.

Q. You attribute that to the sea, do you—that variation of the log from the actual run of the ship?

A. Yes, I attribute that to the ship, for instance, bucking into a heavy sea, and the effect of that on the ship and on the log.

Q. Now, that is what surprises me, Captain; don't you think you may be mistaken about that, and that it is to be attributed to the currents of the ocean and not to the seas and the wind, or to the surface water in which the log floats?

A. No. If you had a current, that would undoubtedly affect the reading of your log running from point to point; but I think that would merely be additional. I think the other has its effect. [653—532]